

FEBRUARY 14, 2006 AGENDA REPORT

Agenda Item No. 6a.

City of Wichita
City Council Meeting
February 14, 2006

Agenda Report No. 06-0141

TO: Mayor and City Council Members

SUBJECT: Petitions to construct Drainage Improvements in Fox Ridge Addition (north of 29th St.
North, west of Tyler) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the New Petitions.

Background: On April 26, 2005, the City Council approved a drainage Petition for Fox Ridge Addition. The developer has submitted new Petitions to build the project in three phases. Signatures on the new Petitions represent 100% of the improvement districts.

Analysis: The projects will provide drainage improvements within a residential development located north of 29th St. North, west of Tyler.

Financial Considerations: The original Petition totals \$599,000. The new Petitions also total \$599,000. The funding source is special assessments.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the new Petitions, adopt the Resolutions and authorize the necessary signatures.

Agenda Item No. 6b.

City of Wichita
City Council Meeting
February 14, 2006

Agenda Report No. 06-0142

TO: Mayor and City Council Members

SUBJECT: Petition to construct a Sanitary Sewer for Country Hollow Addition (south of Kellogg,
west of 127th St. East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petition.

Background: On November 8, 2005, the City Council approved a Petition to construct a sanitary sewer for Country Hollow Addition. The developer has submitted a new Petition to expand the scope of the project to reflect projected home sales. The signatures on the new Petition represent 100% of the improvement district.

Analysis: The project will serve a new residential and commercial development located south of Kellogg, west of 127th St. East.

Financial Considerations: The current project budget is \$332,000. The revised project budget is \$530,000. The funding source is Special Assessments.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

Agenda Item No. 8a.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0143

TO: Mayor and City Council

SUBJECT: Aesthetic Improvements in Old Town (District 6)

INITIATED BY: City Manager's Office

AGENDA: Consent

Recommendations: Approve the agreement, authorize the budget transfers, and authorize all necessary signatures.

Background: Old Town was established in the early 1990's as a retail and entertainment district. Continued development has resulted in increases in the number of visitors, businesses, and property valuations. Old Town has developed into a unique, regional attraction.

Analysis: As a destination area, aesthetic considerations are critical to maintaining and improving the attractiveness of Old Town. Recently the City was approached by the Old Town Association (OTA) about making improvements in the area to enhance the visual appeal and visitor experience in Old Town.

The OTA would like to pursue several projects in 2006. Specific improvements would include:

- Construction of public restrooms and installation of drinking fountains;
- Landscaping improvements, to include lighting, trash enclosures and brick/concrete repair;
- Additional electrical work to improve the holiday lighting connections and circuitry;
- Pigeon control features;
- Directory kiosks;

- Bike racks;
- Banners for holidays and special events;
- Historic marker plaques for self-guided tours;
- Doggy bag dispensers; and
- Security lighting for parking lots, and security cameras in the Hotel at Old Town parking garage.

All improvements and amenities would be consistent with existing development in the Old Town and Downtown areas.

The OTA will utilize their existing relationships with building owners and tenants (many of whom are OTA members) to expedite the project.

Financial Considerations: Funding for the improvements are available in the Old Town Tax Increment Financing (TIF) Fund, and will be cash-funded. The TIF is current as to debt service payments, and future annual revenue streams are projected to continue to fully fund future annual debt service requirements. Access to the TIF funds will require budget transfers within the TIF. The cost of the agreement will not exceed \$950,000. All payments to the OTA will be made on a reimbursement basis, as they complete the various improvement projects listed above.

Legal Considerations: The Law Department has approved the agreement with the Old Town Association as to legal form.

Recommendation/Actions: It is recommended that the City Council approve the agreement, authorize the budget transfers, and authorize all necessary signatures.

Agenda Item No. 8b.

City of Wichita
City Council Meeting
 February 14, 2006

Agenda Report No. 06-0144

TO: Mayor and City Council

SUBJECT: Agreements to Respread Assessments: Krug North 2nd Addition (west of 143rd Street East, north of 21st Street North) (District II)

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Approve the Agreements.

Background: The landowners, Chestnut Ridge, L.L.C.; Zimbelman Construction, L.L.C.; Sharp Construction of Augusta, Inc.; Porter Homes, Inc.; Nies Homes, Inc.; and Glass Homes, Inc., have submitted two Agreements to respread special assessments within the Addition.

Analysis: The land was originally included in an improvement district for main sanitary sewer, storm water sewer and storm water drain improvements. The purpose of the Agreements is to respread special assessments on a fractional basis for each lot, therefore, distributing the cost of the improvements more fairly. Without the Agreements, the assessments will be spread on a square foot basis.

Financial Considerations: There is no cost to the City.

Legal Considerations: The Agreements have been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the Agreements and authorize the necessary signatures.

Agenda Item No. 8c.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0145

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Hillside Bridge at Range Road (District III)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: On May 4, 2004, the City entered into an Agreement with Cook, Flatt & Strobel Engineers, P.A. (CF&S) for designing a plan to rehabilitate the Hillside Bridge at Range Road. The fee was \$27,000. On October 4, 2005, the City approved Supplemental Agreement No. 1 to design plans for the replacement of a section of 12" waterline on the bridge. The fee was \$7,700.

Analysis: Further engineering review has revealed that it will be more economical in the long run to replace the bridge rather than rehabilitate it. Rehabilitation cost estimates climbed to as much as \$975,000. It is believed that a new bridge can be constructed for approximately \$1,225,000. Complete replacement will provide a structure that will last much longer than a bridge that is rehabilitated. Supplemental Agreement No. 2 has been prepared for the additional design services to completely replace the bridge.

Financial Considerations: Payment to CF&S for the Supplemental Agreement will be made on a lump sum basis of \$13,660 and will be paid by General Obligations Bonds.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

SUPPLEMENTAL AGREEMENT NO. 2

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED MAY 4, 2004

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

"CITY"

AND

COOK, FLATT & STROBEL ENGINEERS, P.A.

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated May 4, 2004) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to the **HILLSIDE BRIDGE AT RANGE ROAD**.

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

Scope changed from a bridge rehabilitation design
to a bridge replacement design.
(OCA No. 715701)

B. PAYMENT PROVISIONS

The fee in Section IV. A. shall be amended to include the following:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement will increase the total contract by **\$13,660.00**.

C. COMPLETION

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY by _____;

EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this _____ day of _____, 2006.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

COOK, FLATT AND STROBEL ENGINEERS, P.A.

(Name and Title)

ATTEST:

Agenda Item No. 8d.

City of Wichita
City Council Meeting
February 14, 2006

Agenda Report No. 06-0146

TO: Mayor and City Council

SUBJECT: Northwest Sewer Improvements Program Management – Supplemental Agreement
(District V)

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve Supplemental Agreement No. 5 for the Northwest Sewer Improvements Management Contract for architectural landscaping and site restoration for the pump station for sewer main 5.

Background: On January 19, 1999, the City Council approved a plan for a new sewage treatment plant and improvements to serve northwest Wichita. Selection of Professional Engineering Consultants, Inc. to perform project management tasks was approved September 28, 1999. Tasks included the development of plans, specifications, and project estimates for the design and construction phase. Plans for the supporting sanitary sewers, lift stations, and water lines are being prepared.

Analysis: The Scope of Services for revision to sewer main 5 northwest sewer design work will

require architectural landscaping design, beautification and site restoration for the pump station site and an easement area on and crossing the Alter property. Work will also include an itemized list of planting materials.

Financial Considerations: The additional cost for the above-mentioned scope and Supplemental Agreement No. 5 will not exceed \$4,500. Funding of \$413,000 is available in CIP S-512, Northwest Sewage Treatment Plant & Basins 1,2,3. The project will be funded by revenues and/or bond sales.

Legal Considerations: The Supplemental Agreement has been reviewed and approved by Law.

Recommendations/Actions: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

Agenda Item No. 8e.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0147

TO: Mayor and City Council

SUBJECT: Southeast Water Booster Pump Station – Supplemental Agreement (District III)

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve Supplemental Agreement No.1 with Burns & McDonnell Consultant Engineers, Inc. for construction inspection.

Background: On May 10, 2005, the Staff Screening and Selection Committee selected Burns & McDonnell Consultant Engineers for the design of the Southeast Water Booster Pump Station.

Analysis: On July 19, 2005, the City Council approved a Contract with Burns & McDonnell Engineering Company, Inc. to provide engineering and design services for the Southeast Water Booster Pump Station. The Request for Proposals contained an option for the construction inspection to go to a selected design consultant. Staff recommends Burn & McDonnell for the construction phase services option.

Financial Considerations: The cost for the above-mentioned scope will not exceed \$200,668 for construction phase services. Capital Improvement Program W-537, Southeast Booster Pump Station, is included in the 2005 approved CIP budget. The total budget for the project is \$3.62 million: \$1.1 million in 2005 and \$2.52 million in 2006. The project will be funded from Water Utility revenues and reserves, and/or a future revenue bond issue.

Legal Considerations: The Law Department has reviewed and approved the Supplemental Agreement as to form.

Recommendations/Actions: It is recommended that the City Council approve the Supplemental Agreement No. 1 and authorize the necessary signatures.

Agenda Item No. 8f.

City of Wichita

Agenda Report No. 06-0148

TO: Mayor and City Council

SUBJECT: Aviators Lease Contract (District IV)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Authorize the lease agreement between Park and Recreation Department, Wichita Ice Center and the Wichita Aviators.

Background: The Park and Recreation Department has reached a lease agreement with a local indoor sports team, the Wichita Aviators. The Aviators current lease agreement with the Kansas Coliseum has expired and they have reached an agreement with management staff at the Wichita Ice Center for the next three years.

Analysis:

The Wichita Ice Center management is entering into a lease agreement between the City of Wichita, Wichita Ice Center, City of Wichita, “lessor”, organized under the laws of the State of Kansas, having its principal place of business at 505 W. Maple, Wichita, Sedgwick County, Kansas. The lease agreement covers office space, storage space, sign rental, Olympic rink, second floor viewing, and locker room rentals. The term of this lease agreement is six months, beginning on March 1, 2006, and terminating on August 31, 2006.

Financial Considerations:

Wichita Aviators shall pay Wichita Ice Center, City of Wichita office space, storage space and sign rental amounts in installments of \$350.00 each month, beginning on March 1, 2006 during the term of the lease agreement. Wichita Aviators will also pay Wichita Ice Center, City of Wichita \$4,230.00 for each home game for usage of the Olympic rink, bleacher seating, second floor viewing and locker rooms. The Wichita Ice Center, City of Wichita shall arrange and pay for the following utilities: heat, air, electricity, gas, hot and cold water, sewer, and trash during the term of the lease.

Legal Considerations: Legal has reviewed the lease agreement as to form.

Recommendation/Action: It is recommended that the City Council authorize and sign the lease agreement between Park and Recreation Department, Wichita Ice Center and the Wichita Aviators.

City of Wichita, Wichita Ice Center
NET LEASE OF BUSINESS PREMISES
Comprehensive lease of premises for business use

LEASE AGREEMENT

This lease agreement was entered into on March 1, 2006. The City of Wichita, leases its premises identified as the Wichita Ice Center at 505 W. Maple, Wichita, Sedgwick County, Kansas, referred to as “City of Wichita,” and Aviation Excellence LLC, “lessee” a limited liability company organized under the laws of the State of Kansas, having its principal place of business at 225 East Douglas, Wichita, Sedgwick County, Kansas, referred to in this document as “Wichita Aviators.”

SECTION ONE

DESCRIPTION OF PREMISES

City of Wichita leases to Wichita Aviators the premises located 505 W. Maple, Wichita, Sedgwick County, Kansas, and described more particularly as follows:

- Office Space: First office, South end of building
- Storage Space: First office, South end of building
- Sign Rental: Northwest end, front of building, pending City of Wichita approval.
- Olympic Rink: April through July: Seven agreed upon Saturdays; 3:00 p.m. to 10:00 p.m.
- Second Floor Viewing: 6:00 p.m. to 10:00 p.m. game day
- Locker Rooms: 2 for home team, 2 for visiting team, 1 for dance team and 1 - training room on game days. Use between 5:00 p.m. to 10:30 p.m.

SECTION TWO

TERM

The term of this lease agreement is six months, beginning on March 1, 2006, and terminating on August 31, 2006.

The Wichita Aviators acknowledges that it accepts the premises in its present condition and further acknowledges that the premises is in condition acceptable for the purposes for which the Wichita Aviators will use the premises.

SECTION THREE

RENT

- A. The total rent under this lease agreement is as follows:

Office Space: \$300.00 month

Storage Space: \$25.00 month

Sign Rental: \$25.00 month

Olympic Rink: \$4,230.00 (per home game) Includes Rink, Bleachers Second Floor Viewing, Custodial/Maintenance, Paper Products, Parking.

Locker Rooms: No charge

- B. Wichita Aviators shall pay City of Wichita office space, storage space and sign rental amounts in installments of \$350.00 each month, beginning on March 1, 2006 with succeeding payments due on the first day of each subsequent month during the term of the lease agreement. Rent for any partial month shall be prorated on the basis of a thirty (30) day month.
- C. Wichita Aviators shall pay City of Wichita \$4,230.00 for each home game for usage of the Olympic rink, bleacher seating, second floor viewing and locker rooms. Rent amount is due on the Thursday prior to the Saturday home game, beginning on March 30, 2006 with succeeding payments due on the Thursday prior to each Saturday home game during the term of the lease agreement.

All rent shall be paid to the City of Wichita, Wichita Ice Center, 505 W. Maple, Wichita, KS.

SECTION FOUR

USE OF PREMISES

The demised premises are to be used for the purposes of Wichita Aviator arena football business. Wichita Aviators shall restrict its use to such purposes, and shall not use or permit the use of the demised premises for any other purpose without the prior, express, and written consent of City of Wichita, or City of Wichita's authorized agent.

SECTION FIVE**RESTRICTIONS ON USE**

- D. Wichita Aviators shall not use the demised premises in any manner that will increase risks covered by insurance on the demised premises and result in an increase in the rate of insurance or a cancellation of any insurance policy, even if such use may be in furtherance of Wichita Aviator's business purposes.
- E. Wichita Aviators shall not keep, use, or sell anything prohibited by any policy of fire insurance covering the demised premises, and shall comply with all requirements of the insurers applicable to the demised premises necessary to keep in force the fire and liability insurance.

SECTION SIX**WASTE, NUISANCE, OR UNLAWFUL ACTIVITY**

Wichita Aviators shall not allow any waste or nuisance on the demised premises, or use or allow the demised premises to be used for any unlawful purpose.

SECTION SEVEN**DELAY IN DELIVERING POSSESSION**

This lease agreement shall not be rendered void or voidable by the inability of City of Wichita to deliver possession to the Wichita Aviators on the date set forth in Section Two. City of Wichita shall not be liable to Wichita Aviators for any loss or damage suffered by reason of such a delay; provided, however, that City of Wichita does deliver possession no later than April 1, 2006. In the event of a delay in delivering possession, the rent for the period of such delay will be deducted from the total rent due under this lease agreement. No extension of this lease agreement shall result from a delay in delivering possession.

SECTION EIGHT**UTILITIES**

City of Wichita shall arrange and pay for the following utilities: heat, air, electricity, gas, hot and cold water, sewer, and trash.

Wichita Aviators shall arrange and pay for all utilities furnished to the demised premises for the term of this lease agreement, including, but not limited to telephone service, Internet services, television services, office equipment.

SECTION NINE**REPAIRS AND MAINTENANCE**

Except otherwise provided herein City of Wichita shall, at its cost, maintain in good condition the building and parking areas on the premises.

Wichita Aviators, at its cost, shall maintain in good condition all personal property, the phone system and all its fixtures. Wichita Aviators shall be liable for any damage to the premises resulting from the acts or omissions of the Wichita Aviators, its authorized representatives, guest and invitees.

Wichita Aviators shall cause all trash, garbage and waste from Wichita Aviator's use of the premises to be removed regularly in accordance with usual practice during rental of office space.

City of Wichita shall perform or arrange for its janitorial services and keep the premises neat and clean prior to and after home game events.

Wichita Aviators shall not make any alterations to the premises without City of Wichita's written consent.

SECTION TEN**DELIVERY, ACCEPTANCE, AND SURRENDER OF PREMISES**

- F. City of Wichita represents that the demised premises are in fit condition for use by Wichita Aviators. Acceptance of the demised premises by Wichita Aviators shall be construed as recognition that the demised premises are in a good state of repair and in sanitary condition.

- G. Wichita Aviators shall surrender the demised premises at the end of the lease term, or any renewal of such term, in the same condition as when Wichita Aviators took possession, allowing for reasonable use and wear, and damage by acts of God, including fire and storms. Before delivery, Wichita Aviators shall remove all business signs placed on the demised premises by Wichita Aviators and restore the portion of the demised premises on which they were placed in the same condition as when received.

SECTION ELEVEN

PARTIAL DESTRUCTION OF PREMISES

- H. Partial destruction of the demised premises shall not render this lease agreement void or voidable, nor terminate it except as specifically provided in this lease agreement. If the demised premises are partially destroyed during the term of this lease agreement, City of Wichita shall repair them when such repairs can be made in conformity with governmental laws and regulations, within 90 days of the partial destruction. Written notice of the intention of City of Wichita to repair shall be given to Wichita Aviators within 30 days after any partial destruction. Rent will be reduced proportionately to the extent to which the repair operations interfere with the business conducted on the demised premises by Wichita Aviators. If the repairs cannot be made within the time specified above, City of Wichita shall have the option to make them within a reasonable time and continue this lease agreement in effect with proportional rent rebate to Wichita Aviators as provided for in this lease agreement. If the repairs cannot be made in 90 days, and if City of Wichita does not elect to make them within a reasonable amount of time, either party shall have the option to terminate this lease agreement.

SECTION TWELVE

ENTRY ON PREMISES BY CITY OF WICHITA

- I. City of Wichita reserves the right to enter on the demised premises at reasonable times to inspect them, perform required maintenance and repairs, or to make additions, alterations, or modifications to any part of the building in which the demised premises are located, and Wichita Aviators shall permit City of Wichita to do so.
- J. City of Wichita may erect scaffolding, fences, and similar structures, post relevant notices, and place moveable equipment in connection with making alterations, additions, or repairs, all without incurring liability to Wichita Aviators for disturbance of quiet enjoyment of the demised premises, or loss of occupation of the demised premises.

SECTION THIRTEEN

SIGNS, AWNINGS, AND MARQUEES INSTALLED BY WICHITA AVIATORS

- K. Wichita Aviators shall, at its own cost, have the right to place, construct and maintain an exterior sign on the premises identifying the premises as Wichita Aviator business. Any such sign shall be subject to approval of the City of Wichita, and shall conform to all applicable zoning and planning requirements for signs and sign regulation contained in chapter 24 of the city code. Pending City of Wichita approval, the sign shall be located on northwest end of building.
- L. Wichita Aviators shall remove signs, displays, advertisements, or decorations it has placed on the premises that, in the opinion of City of Wichita, are offensive or otherwise objectionable. If Wichita Aviators fails to remove such signs, displays, advertisements, or decorations within two (2) days after receiving written notice from City of Wichita to remove them, City of Wichita

reserves the right to enter the demised premises and remove them at the expense of Wichita Aviators.

SECTION FOURTEEN BUSINESS SALE SIGNS

Wichita Aviators shall not conduct "Going out of Business," "Lost Our Lease," "Bankruptcy," or other sales of that nature on the demised premises without the written consent of City of Wichita.

SECTION FIFTEEN NONLIABILITY OF CITY OF WICHITA FOR DAMAGES

City of Wichita shall not be liable for liability or damage claims for injury to persons or property from any cause relating to the occupancy of the demised premises by Wichita Aviators, including those arising out of damages or losses occurring during the Wichita Aviators football game event, on sidewalks and other areas adjacent to the demised premises during the term of this lease agreement or any extension of such term. Wichita Aviators shall indemnify City of Wichita from any and all liability, loss, or other damage claims or obligations resulting from any injuries or losses of this nature.

SECTION SIXTEEN LIABILITY INSURANCE

- M. Wichita Aviators shall procure and maintain in force at its expense during the term of this lease agreement and any extension of such term, public liability insurance with insurers and through brokers approved by the City of Wichita. Such coverage shall be adequate to protect against liability for damage claims through public use of or arising out of accidents occurring in or around the demised premises, in a minimum amount of \$500,000 for each person injured, \$1,000,000 for any one accident, and \$1,000,000 for property damage. The insurance policies shall provide coverage for contingent liability of City of Wichita on any claims or losses. The insurance policies shall be delivered to City of Wichita for safekeeping. Wichita Aviators shall obtain a written obligation from the insurers to notify City of Wichita in writing at least 30 days prior to cancellation or refusal to renew any policy.
- N. If the insurance policies required by this section are not kept in force during the entire term of this lease agreement or any extension of such term, City of Wichita may procure the necessary insurance and pay the premium for it, and the premium shall be repaid to City of Wichita as an additional rent installment for the month following the date on which the premiums were paid by City of Wichita. The option of City of Wichita to purchase insurance under these conditions is not an exclusive remedy under this agreement and the parties understand and agree that the requirement to procure insurance is a material condition of this agreement.

SECTION SEVENTEEN ASSIGNMENT, SUBLEASE, OR LICENSE

- O. Wichita Aviators shall not assign or sublease the demised premises, or any right or privilege connected with the demised premises, or allow any other person except agents and employees of Wichita Aviators to occupy the demised premises or any part of the demised premises without first obtaining the written consent of City of Wichita. A consent by City of Wichita shall not be a consent to a subsequent assignment, sublease, or occupation by other persons.
- P. An unauthorized assignment, sublease, or license to occupy by Wichita Aviators shall be void and shall terminate this lease agreement at the option of City of Wichita.

- Q. The interest of Wichita Aviators in this lease agreement is not assignable by operation of law without the written consent of City of Wichita.
- R. Nothing in this agreement shall be construed as prohibiting City of Wichita from assigning this agreement to any third party who assumes responsibility for operation of the ice center under a lease, management agreement or other business arrangement. Any such assignment shall be on the same terms as set out herein in this agreement unless modified by the parties in accordance with paragraph twenty-five.

SECTION EIGHTEEN

BREACH

The appointment of a receiver to take possession of the assets of Wichita Aviators, a general assignment for the benefit of the creditors of Wichita Aviators, any action taken or allowed to be taken by Wichita Aviators under any bankruptcy act, or the failure of Wichita Aviators to comply with each term and condition of this lease agreement shall constitute a breach of this lease agreement. Wichita Aviators shall have 10 days after receipt of written notice from City of Wichita of any breach to correct the conditions specified in the notice. If the corrections cannot be made within the 10-day period, Wichita Aviators shall have a reasonable time to correct the default if action is commenced by Wichita Aviators within 10 days after receipt of the notice.

SECTION NINETEEN

REMEDIES OF CITY OF WICHITA FOR BREACH BY WICHITA AVIATORS

City of Wichita shall have the following remedies in addition to its other rights and remedies in the event Wichita Aviators breaches this lease agreement and fails to make corrections as set forth in Section Eighteen:

- S. City of Wichita may reenter the demised premises immediately and remove the property and personnel of Wichita Aviators, store the property in a public warehouse or at a place selected by City of Wichita, at the expense of Wichita Aviators.
- T. After reentry, City of Wichita may terminate this lease agreement on giving 10 days' written notice of termination to Wichita Aviators. Without such notice, reentry will not terminate this lease agreement. On termination, City of Wichita may recover from Wichita Aviators all damages proximately resulting from the breach, including, but not limited to, the cost of recovering the demised premises and the balance of the rent payments remaining due and unpaid under this lease agreement.
- U. After reentering, City of Wichita may relet the demised premises or any part of the demised premises for any term without terminating this lease agreement, at such rent and on such terms as it may choose. City of Wichita may make alterations and repairs to the demised premises. The duties and liabilities of the parties if the demised premises are relet shall be as follows:
- (1) In addition to Wichita Aviator's liability to City of Wichita for breach of this lease agreement, Wichita Aviators shall be liable for all expenses of the reletting, for the alterations and repairs made, and for the difference between the rent received by City of Wichita under the new lease agreement and the rent installments that were due for the same period under this lease agreement.
- I. City of Wichita, at its option, shall have the right to apply the rent received from reletting the premises (a) to reduce Wichita Aviator's indebtedness to City of Wichita under this lease agreement, not including indebtedness for rent, (b) to expenses of the reletting and alterations and repairs made, (c) to rent due under

this lease agreement, or (d) to payment of future rent under this lease agreement as it becomes due.

If the Wichita Aviators does not pay a rent installment promptly to City of Wichita, and the rent installment has been credited in advance of payment to the indebtedness of Wichita Aviators other than rent, or if rentals from the new Wichita Aviators have been otherwise applied by City of Wichita as provided for in this section, and during any rent installment period, are less than the rent payable for the corresponding installment period under this lease agreement, Wichita Aviators shall pay City of Wichita the deficiency, separately for each rent installment deficiency period, and before the end of that period. City of Wichita may, at any time after such reletting, terminate this lease agreement for the breach on which City of Wichita based the reentry and relet the demised premises. After reentry, City of Wichita may procure the appointment of a receiver to take possession and collect rents and profits of the business of Wichita Aviators. If necessary to collect the rents and profits, the receiver may carry on the business of Wichita Aviators and take possession of the personal property used in the business of Wichita Aviators, including inventory, trade fixtures, and furnishings and use them in the business without compensating Wichita Aviators. Proceedings for appointment of a receiver by City of Wichita, or the appointment of a receiver and the conduct of the business of Wichita Aviators by the receiver, shall not terminate this lease agreement unless City of Wichita has given written notice of termination to Wichita Aviators as provided in this lease agreement.

SECTION TWENTY

ATTORNEY FEES

If City of Wichita files an action to enforce any agreement contained in this lease agreement, or for breach of any covenant or condition, Wichita Aviators shall pay City of Wichita reasonable attorney fees for the services of City of Wichita's attorney in the action, all fees to be fixed by the court.

SECTION TWENTY-ONE

CONDEMNATION

Eminent domain proceedings resulting in the condemnation of a part of the demised premises, but leaving the remaining premises usable by Wichita Aviators for the purposes of its business, will not terminate this lease agreement unless City of Wichita, at its option, terminates this lease agreement by giving written notice of termination to Wichita Aviators. The effect of any condemnation, where the option to terminate is not exercised, will be to terminate this lease agreement as to the portion of the demised premises condemned, and the lease of the remainder of the demised premises shall remain intact. The rental for the remainder of the lease term shall be reduced by the amount that the usefulness of the demised premises has been reduced for the business purposes of Wichita Aviators. Wichita Aviators assigns and transfers to City of Wichita any claim it may have to compensation for damages as a result of any condemnation.

SECTION TWENTY-TWO

WAIVERS

Waiver by City of Wichita of any breach of any covenant or duty of Wichita Aviators under this lease is not a waiver of a breach of any other covenant or duty of Wichita Aviators, or of any subsequent breach of the same covenant or duty.

SECTION TWENTY-THREE

GOVERNING LAW

It is agreed that this lease agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Kansas.

SECTION TWENTY-FOUR

ENTIRE AGREEMENT

This lease agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this lease agreement shall not be binding upon either party except to the extent incorporated in this lease agreement.

SECTION TWENTY-FIVE**MODIFICATION OF AGREEMENT**

Any modification of this lease agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

SECTION TWENTY-SIX**NOTICES**

All notices, demands, or other writings that this lease agreement requires to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, registered and postage prepaid, and addressed as follows:

To City of Wichita: Wichita Ice Center, Wichita 505 W. Maple, Wichita, Kansas 67025

To Wichita Aviators: 225 East Douglas, Wichita, Sedgwick County, Kansas 67202

V. The address to which any notice, demand, or other writing may be given or made or sent to any party as above provided may be changed by written notice given by such party as above provided.

SECTION TWENTY-SEVEN**BINDING EFFECT**

This lease agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of the parties.

SECTION TWENTY-EIGHT**TIME OF THE ESSENCE**

It is specifically declared and agreed that time is of the essence of this lease agreement.

SECTION TWENTY-NINE**PARAGRAPH HEADINGS**

The titles to the paragraphs of this lease agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this lease agreement.

In witness, each party to this lease agreement has caused it to be executed at the City of Wichita on the date indicated below.

Date APPROVED:
CITY OF WICHITA

AVIATION EXCELLENCE, LLC

Carlos Mayans, Mayor
Manager

Mike McCoy, General

APPROVED AS TO FORM:

City of Wichita, Director of Law

ATTEST:

City of Wichita, City Clerk

City of Wichita, Wichita Ice Center

STATEMENT OF GENERAL TERMS & CONDITIONS**1. Internet/Phone/Fax**

Wichita Aviators will secure their own telephone and Internet lines. Wichita Ice Center will provide fax capabilities with Wichita Aviators paying any long distance charges. Use of copier will be allowed on an approval basis at a rate of \$00.01 per copy

2. Dates Not Available

The Wichita Ice Center will not be available to the Wichita Aviators on the following dates: May 5, 6, 7, 12,13,14,19, 20, 21, June 9, 10, 11

3. Signage

The Wichita Aviators may put up signage on the northwest corner of building once the City of Wichita has given approval.

4. Merchandise in Sport Store

Wichita Ice Center will sell a reasonable amount of Wichita Aviator merchandise in its store for \$15.00 per month.

5. Turf Storage

The Wichita Aviators will be responsible for securing and storing its own turf. Turf storage is not available at the Wichita Ice Center.

6. Forklift

The Wichita Aviators will be responsible for securing the usage and cost of renting a forklift and/or scissor lift.

7. Bleacher Rental

The City of Wichita Park & Recreation department will provide bleachers for all home Wichita Aviators games for the cost of \$1,000.00 per game.

8. Custodial/Maintenance/Arena Set-up/Locker rooms

The Wichita Ice Center will provide maintenance staff to help with arena set up and take down not to exceed 16 hours per game. In addition custodial staff will handle the cleaning of the facility not to exceed 16 hours per game. Hours above and beyond 16 hours for each area will be billed at \$15.00 per hour.

Arena glass will be removed in sections 101, 102, 105, 106.

Wichita Aviators will provide manpower and assist with arena set-up and tear down.

9. Arena Divider

The Wichita Aviators will construct and pay for arena dividers and flooring to accommodate bleacher seating.

10. Paper Products

The Wichita Ice Center will provide all toilet tissue and paper towels and restrooms.

11. Parking

The Wichita Aviators will handle all parking related issues pertaining to game day.

12. Security/Tickets/ Ushers/EMT's

The Wichita Aviators will handle its own printing and selling of game day tickets.

The Wichita Aviators will provide and pay for all security, ticket takers, ushers and EMT's.

13. Concession

The Wichita Ice Center will provide all concessions for home games. The Wichita Ice Center will provide all workers in this area.

No food or drink may be brought into the facility on said days with the exception of water bottles for the team members.

14. Second Floor Viewing

The second floor will be available for viewing from 6:00 p.m. to 10:00 p.m.

15. Dance Team Practice

The Wichita Aviators Dance team will use the upstairs facility one night a week for practice. Practice dates and times must be reserved through the Wichita Ice Center's administrative office. No fee will be assessed.

Wichita Ice Center

Wichita Aviators

Debbie Williams

Mike McCoy

Agenda Item No. 9a.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0149

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Whispering Lakes Estates Addition
(south of Harry, west of 159th Street East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer, drainage and paving improvements in Whispering Lakes Estates Addition on January 24, 2006.

Analysis: The proposed Agreement between the City and Ruggles & Bohm, P.A. (R&B) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, drainage and paving in Whispering Lakes Estates Addition. Per Administrative Regulation 7a, staff recommends that R&B be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to R&B will be on a lump sum basis of \$61,100 and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

for

WHISPERING LAKES ESTATES ADDITION

THIS AGREEMENT, made this _____ day of _____, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and RUGGLES & BOHM, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90166 serving Lots 22 through 35, Block 1; Lots 22 through 27, Block 3; Lots 18 through 27, Block 4, Whispering Lakes Estates Addition (south of Harry, west of 159th Street East) (Project No. 448 90166).

LATERAL 394, FOUR MILE CREEK SEWER serving Lots 23 through 35, Block 1; Lot 18, Block 3; Lots 23 and 24, Block 4; Lots 11 and 27, Block 5, Whispering Lakes Estates Addition (south of Harry, west of 159th Street East) (Project No. 468 84142).

STORM WATER DRAIN NO. 288 serving Lots 22 through 35, Block 1; Lots 1 through 27, Block 3; Lots 1 through 37, Block 4; Lots 1 through 14, Block 5, Whispering Lakes Estates Addition (south of Harry, west of 159th Street East) (Project No. 468 84143).

ROSEWOOD from the east line of Brookhaven to the west line of Lot 16, Block 4; HAZEL NUT from the east line of Lot 28, Block 4 to the west line of Rosewood; HAZEL NUT CIRCLE from the east line of Rosewood to and including the cul-de-sac (Lots 26 through 31, Block 1); ROSEWOOD COURT from the west line of Rosewood to and including the cul-de-sac (Lots 21 through 26, Block 4) (south of Harry, west of 159th Street East) (Project No. 472 84367).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

II. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Whispering Lakes Estates Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. **IN ADDITION, THE ENGINEER AGREES**

W. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

X. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

Y. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

- Z. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- AA. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- BB. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- CC. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- DD. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- EE. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- FF. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$5,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

- Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.
- GG. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s)

designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90160	\$ <u>5,500.00</u>
Project No. 468 84142	\$ <u>6,800.00</u>
Project No. 468 84143	\$ <u>27,000.00</u>
Project No. 472 84367	\$ <u>21,800.00</u>
TOTAL	\$ 61,100.00

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:**

- 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
- 2. Additional design services not covered by the scope of this agreement.
- 3. Construction staking, material testing, inspection and administration related to the PROJECT.
- 4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely

postponed, or because of the ENGINEER'S inability to proceed with the work.

- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefore.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

RUGGLES & BOHM, P.A.

(Name & Title)

ATTEST:

EXHIBIT "A"

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY's Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER's contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
 - a. Plan Development for the water improvements by April 26, 2006. (Project No. 448 90166).

- b. Plan Development for the sewer improvements by April 26, 2006. (Project No. 468 84142).
- c. Plan Development for the drainage improvements by April 26, 2006. (Project No. 468 84143).
- d. Plan Development for the paving improvements by April 26, 2006. (Project No. 472 84367).

Agenda Item No. 9b.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0150

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Country Hollow Addition (south of Kellogg, east of 127th Street East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer, drainage and paving improvements in Country Hollow Addition on November 8, 2005.

Analysis: The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, drainage and paving in Country Hollow Addition. Per Administrative Regulation 7a, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to MKEC will be on a lump sum basis of \$190,800 and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

MKEC ENGINEERING CONSULTANTS, INC.

for

COUNTRY HOLLOW ADDITION

THIS AGREEMENT, made this _____ day of _____, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and MKEC ENGINEERING CONSULTANTS, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90142 serving Lots 1 through 36, Block 2; Lots 1 through 20, Block 3; Lots 1 through 6, Block 4, Country Hollow Addition (south of Kellogg, east of 127th Street East) (Project No. 448 90142).

WATER DISTRIBUTION SYSTEM NO. 448 90154 serving Lots 1 through 24 and 37, Block 1; Lots 1 through 36, Block 2; Lots 1 through 20, Block 3; Lots 1 through 6, Block 4, Country Hollow Addition (south of Kellogg, east of 127th Street East) (Project No. 448 90154).

LATERAL 386, FOUR MILE CREEK serving Lots 1 through 24, Block 1; Lots 1 through 36, Block 2; Lots 1 through 20, Block 3; Lots 1 through 6, Block 4, Country Hollow Addition and Unplatted Tracts (south of Kellogg, east of 127th Street East) (Project No. 468 84102).

LATERAL 388, FOUR MILE CREEK serving Lots 1 through 38, Block 2; Lots 1 through 20, Block 3; Lots 1 through 9, and 25 through 28, Block 4; Lot 1, Block 5, Country Hollow Addition and Unplatted Tracts (south of Kellogg, east of 127th Street East) (Project No. 468 84104).

STORM WATER DRAIN NO. 280 serving Lots 1 through 24, Block 1; Lots 1 through 38, Block 2; Lots 1 through 20, Block 3; Lots 1 through 28, Block 4; Lot 1, Block 5, Country Hollow Addition and Unplatted Tracts (south of Kellogg, east of 127th Street East) (Project No. 468 84113).

PECKHAM/LAGUNA/SIERRA HILLS from the south line of Gilbert to the north line of Lot 20, Block 3; PECKHAM COURT serving Lots 1 through 15, Block 2, from the west line of Peckham to and including the cul-de-sac; PECKHAM COURT serving Lots 16 through 27, Block 2, from the west line of Peckham to and including the cul-de-sac; LAGUNA from the east line of Lot 36, Block 2 to 237' east of the east line of Lot 36, Block 2 (south of Kellogg, east of 127th Street East) (Project No. 472 84328)

GILBERT from the east line of 127th Street East to the east line of Lot 1, Block 4 (south of Kellogg, east of 127th Street East) (Project No. 472 84350).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

III. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Country Hollow Addition and perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

HH. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

II. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

JJ. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

KK. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

LL. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

MM. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

NN. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

OO. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

PP. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

QQ. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$5,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the

provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

RR. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

- G. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- H. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- I. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- J. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- L. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

VI. PAYMENT PROVISIONS

C. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90142	<u>\$ 10,200.00</u>
Project No. 448 90154	<u>\$ 5,400.00</u>
Project No. 468 84102	<u>\$ 12,200.00</u>
Project No. 468 84104	<u>\$ 39,200.00</u>
Project No. 468 84113	<u>\$ 57,800.00</u>
Project No. 472 84328	<u>\$ 50,000.00</u>
Project No. 472 84350	<u>\$ 16,000.00</u>

- D. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
5. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
 6. Additional design services not covered by the scope of this agreement.
 7. Construction staking, material testing, inspection and administration related to the PROJECT.
 8. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

VII. THE PARTIES HERETO MUTUALLY AGREE:

- I. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- J. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- K. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- L. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefore.
- M. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- N. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- O. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- P. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANT, INC.

(Name & Title)

ATTEST:

EXHIBIT "A"

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

B. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

6. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
7. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
8. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
9. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 ½"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
10. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
10. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
11. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
12. Project Milestones. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below and generally in accordance with the project bar chart attached to Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
 - a. Plan Development for the water improvements by 120 days from notice to proceed.
(Project No. 448 90142).
 - b. Plan Development for the water improvements by 120 days from notice to proceed.
(Project No. 448 90154).
 - c. Plan Development for the sewer improvements by 120 days from notice to proceed.
(Project No. 468 84102).
 - d. Plan Development for the sewer improvements by 120 days from notice to proceed.
(Project No. 468 84104).
 - e. Plan Development for the drainage improvements by 120 days from notice to proceed.
(Project No. 468 84113).
 - f. Plan Development for the paving improvements by 120 days from notice to proceed.
(Project No. 472 84328).
 - g. Plan Development for the paving improvements by 120 days from notice to proceed.
(Project No. 472 84350).

Agenda Item No. 10.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0151

TO: Mayor and City Council Members

SUBJECT: Change Order: Storm Water Drain in Southern Ridge 3rd Addition (south of Pawnee, west of Maize) (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On October 4, 2005, the City Council approved a contract with Duling Construction Company for a storm water drain in Southern Ridge 3rd Addition, located south of Pawnee, west of Maize. The developer of the subdivision has requested that the project scope be modified to include the addition of 19,000 cubic yards of fill dirt for building pads.

Analysis: A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

Financial Considerations: The cost of the additional work is \$89,558 with the total paid by special assessments. The original contract amount is \$468,179. This Change Order represents 19.13% of the original contract amount.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

Recommendation/Action: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.



PUBLIC WORKS-ENGINEERING

November 24, 2004

CHANGE ORDER

To: Nowak Construction Co., Inc. **Project:** Lateral 91, Main 1, Southwest Interceptor Sewer to serve Hidden Glen Addition

Change Order No.: 1 **Project No.:** 468-83484

Purchase Order No.: 401004 **OCA No.:** 744064 **PPN:** 480752

CHARGE TO OCA No.: 744064 - \$16,500.00

620421 - \$10,000.00

706877 - \$ 8,500.00

Please perform the following extra work at a cost not to exceed \$35,000.00

ADD:

Replace defective stub 1 LS @ 35,000.00 = 35,000.00

CIP Budget Amount: \$274,000.00 (744064); Original Contract Amt.: \$186,049.00
\$11,000.00 (620421); \$5,050,000.00 (706877)

Consultant: Baughman Current CO Amt.: \$35,000.00

***Total Expenditures & Amt. of Previous CO's: \$0.00**

Encumbrances to Date: \$228,285.83 (744064); Total of All CO's: \$35,000.00

\$10,000.00 (620421); 3,675,954.59 (706877)

Unencumbered Balance: \$45,714.17 (744046); % of Orig. Contract / 25% Max.:

18.8% \$1,000.00 (620421); \$1,374,045.41 (706877) *Adjusted Contract Amt.: \$221,049.00

***INCLUDES CHANGE ORDER(S)**

Recommended By:

Approved:

Lawrence Schaller, P.E.

Date
Date

Construction Engineer

James Armour, P.E.

Acting City Engineer

Approved:

Contractor

Date

Date

Approved as to Form:

Gary Rebenstorf

Date

Date
Director of Law

Approved:

Chris Carrier, P.E.
Acting Director of Public Works

By Order of the City Council:

Carlos Mayans
Mayor

Attest:

City Clerk

Agenda Item No. 11.

CITY OF WICHITA
City Council Meeting
February 14, 2006

Agenda Report No. 06-0152

TO: Mayor and City Council Members

SUBJECT: Acquisition of 5220 South Meridian (District IV)

INITIATED BY: Office of Property Management, Park and Recreation Department

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: The Parks and Recreation Department has identified the house at 5220 South Meridian Avenue as an opportunity purchase to solidify their ownership of South Lakes Park. The house and property is located at the main entry to the South Lakes Softball complex off of Meridian Avenue.

Analysis: The property consists of a 1,100 square foot, frame construction, ranch style house on 0.77 acre lot. The property owner has agreed to deed the land and improvements to the City for the appraised value of \$85,000. The improvements will temporarily be used for storage and then raised to improve the access to the park.

Financial Considerations: A budget of \$86,500 is requested. This includes \$85,000 for the acquisition and \$1,500 for title work, title insurance and closing costs. Funding for the acquisition will come from the Parks and Recreation Departments 2006 Parking Lots and Entry Drives CIP Budget.

Legal Considerations: The Law Department has approved the real estate purchase contract as to form.

Recommendation/Action: It is recommended that the City Council; 1) Approve the Real Estate Purchase Contract and 2) Authorize all necessary signatures.

Agenda Item No. 15.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0153

TO: Mayor and City Council

SUBJECT: Enforcing Underage Drinking Laws (EUDL) Grant

INITIATED BY: Police Department

AGENDA: Consent

Recommendation: Approve the application.

Background: For the past three years, the Wichita Police Department has placed an emphasis on eliminating underage alcohol consumption in our community. In an effort to address this problem, the Wichita Police Department, in collaboration with community agencies and citizens, developed and implemented the JUDGE (Juvenile Underage Drinking Group Education/Enforcement) program. The goals of the JUDGE program are to educate the public on underage alcohol consumption issues and enhance proactive enforcement of laws applicable to underage alcohol consumption. In an effort to assist with this effort, the Police Department is applying for a grant funded by the Kansas Department of Transportation, Bureau of Traffic Safety. The Enforcing Underage Drinking Laws (EUDL) grant is being made available to communities to support their enforcement activities in the area of preventing underage alcohol consumption. The Wichita Police Department received EUDL funding 2005 and is applying for funding again in 2006.

Analysis: The Kansas Department of Transportation is providing financial support in the form of a three-month mini-grant. Funds would be made available from March 1 through May 31, for overtime to support enforcement activities during Spring break, proms and graduations.

Financial Considerations: The Wichita Police Department grant application requests funding for the JUDGE program in the amount of \$23,353.75 for overtime to support enforcement activities. There is no local match.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the City Council approve the application and authorize the appropriate signatures.

KANSAS DEPARTMENT OF TRANSPORTATION

Special Attachment
To Contracts or Agreements Entered Into
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,
REHABILITATION ACT OF 1973, and any amendments thereto,
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,

AGE DISCRIMINATION ACT OF 1975, and any amendments thereto, EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW INCOME POPULATIONS (1994), and any amendments thereto,

49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 3555) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the Regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such ACT, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively insure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following seven “Nondiscrimination Clauses”.

CLARIFICATION

Where the term “consultant” appears in the following seven “Nondiscrimination Clauses”, the term “consultant” is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

Nondiscrimination Clauses

During the performance of this contract, the consultant, or the consultant’s assignees and successors in interest (hereinafter referred to as the “Consultant”), agrees as follows:

- (1) **Compliance with Regulations:** The consultant will comply with the Regulations of the U. S. Department of Transportation relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulations, Parts 21, 23 and 27, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The consultant, with regard to the work performed by the consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Material and Equipment:** In all solicitations, either competitive bidding or negotiation made by the consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the consultant of the consultant’s obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

- (4) Information and Reports: The consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a consultant is in the exclusive possession of another who fails or refuses to furnish this information, the consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.
- (5) Employment: The consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.
- (6) Sanctions for Noncompliance: In the event of the consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,
- (a) withholding of payments to the consultant under the contract until the contractor complies, and/or
 - (b) cancellation, termination or suspension of the contract, in whole or in part.
- (7) Disadvantaged Business Obligation
- (a) Disadvantaged Businesses as defined in the Regulations, shall have a level playing field to compete fairly for contracts financed in whole or in part with Federal funds under this contract.
 - (b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.
 - (c) The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of Federally-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.
- (8) Executive Order 12898
- (a) To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain,

and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the state of Kansas and use such information in complying with this Order.

- (9) Incorporation of Provisions: The consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the consultant may request the State to enter into such litigation to protect the interests of the State.

Agenda Item No. 16.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0154

TO: Mayor and City Council

SUBJECT: Swimming Pool Improvements (Districts I, II, V and VI)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Authorize the project.

Background: The 2006 Park and Recreation CIP will provide funding for improvements to various swimming pools across the city on a periodic, as-needed basis. Council has approved this yearly CIP fund since 2000. Past projects using this fund include diving and lifeguard stand replacement, shade structure installation, sandblasting/painting of pools, spray parks and water slides.

Analysis: The Park and Recreation Department maintains and operates eleven (11) municipal pools within the City's park system. Plans for 2006 swimming pool improvement projects include interior bathhouse renovations at Aley and Linwood pools along with bench and lifeguard stand replacement at Edgemoor, Linwood, Minisa and Orchard pools. Chemical controllers will be updated at Edgemoor, Harvest and College Hill pools. These improvements will allow more efficient chemical usage, address bathhouse issues, and help keep the pools operating in a safe manner for the citizens of Wichita.

Financial Considerations: Funding in the amount of \$100,000 will be available within the Park and Recreation Department's 2006 CIP budget to fund the improvements. The source of funding is General Obligation bonds.

Legal Considerations: The Law Department has reviewed and approved the bonding resolution as to form.

Recommendations/Actions: It is recommended that the City Council 1) adopt the bonding resolution, 2) authorize initiation of the project, and 3) authorize all necessary signatures.

Agenda Item No. 17.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0155

TO: Mayor and City Council

SUBJECT: Kansas Department of Wildlife and Parks grant for South Arkansas River Greenway canoe launch (District III)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the amendment.

Background: On May 2, 2005, the Kansas Department of Wildlife and Parks (KDWP) sent the City a “letter of commitment” by earmarking \$30,000 to complete a joint Arkansas River Access study with the City. The City Council accepted and authorized initiation for the Arkansas River Access study on August 9, 2005. On October 18, 2005, the City Council approved and authorized the initiation of funding to provide construction services for the South Arkansas River Greenway in the amount of \$270,000. Since that time, additional grant funding has been made available by the KDWP for the South Arkansas River Greenway canoe launch and the Arkansas River Access study.

Analysis: The KDWP issued an amended Memorandum of Understanding (MOU) with the City to provide an additional \$45,000 for the construction of the South Arkansas River Greenway canoe launch and funding for the Arkansas River Access study. The additional funding will help to provide the additional resources possibly needed for construction of the canoe launch with the balance of the grant funding used for the Arkansas River Access study.

Financial Considerations: Funding for this project is provided by 2006 Park and Recreation Capital Improvement Funds in the amount of \$270,000. An additional amount up to \$45,000 will be available to provide for construction of the South Arkansas Greenway canoe launch and funding for the Arkansas River Access study.

Legal Considerations: The Law Department has reviewed and approved as to form the amended MOU from KDWP.

Recommendation/Action: Approve the amendment to the Memorandum of Understanding with the Kansas Department of Wildlife and Parks in the amount of \$45,000 and authorize the necessary signatures.

Agenda Item No. 18.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0156

TO: Mayor and City Council

SUBJECT: Contract for Professional Services – South Area Transportation Study (SATS)

INITIATED BY: Metropolitan Area Planning Department (MAPD)

AGENDA: Consent

Recommendation: Approve contract with Wilbur Smith Associates for the South Area Transportation Study.

Background: The Wichita Area Metropolitan Planning Organization (WAMPO) was awarded federal funds to study transportation issues in the southern portions of the MPO planning area. This study will focus on the southeast and southwest areas of the MPO planning area and will include extensive participation by stakeholders, major employers and area residents. This study is regional in nature and it is a cooperative effort involving the local units of government in the southeast and southwest quadrants around Wichita, including the cities of Derby, Haysville, Goddard and Mulvane; Sedgwick County, the Kansas Department of Transportation (KDOT), the Federal Highway Administration (FHWA) and the Kansas Turnpike Authority (KTA).

Analysis: The MAPD's Transportation Planning Division serves as a staff to WAMPO. Professional consulting services are sought to assist staff in completing the study process. The study will identify the transportation needs of the area based on current and forecasted future land use/development, associated traffic analyses, regional connectivity and accessibility; complete required environmental documentation that identifies a preferred transportation solution/corridor; and identify critical issues of rights-of-way within the corridor for preservation.

Five proposal were received in response to the Request for Proposals (RFP). Wilbur Smith Associates was chosen by the sixteen member (16) consultant selection committee that was comprised of officials from the FHWA, KTA, KDOT, Sedgwick County, staff from the Cities of Wichita, Haysville, Derby, Goddard and Mulvane.

Financial Considerations: This contract is for a total sum of \$620,000. Federal transportation planning funds available to the MPO will be used to pay 100 percent of the costs associated with the contractual services.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendations/Actions: It is recommended that the City Council approve the selection of Wilbur Smith Associates to complete the SATS, and authorize the necessary signatures to execute the contract.

Attachment:

1. Consultant agreement and scope of work.

Agenda Item No. 19.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0157

TO: Mayor and City Council Members

SUBJECT: Surplus of Property located at 3333 North Ohio (District VI)

INITIATED BY: Office of Property Management

Recommendation: Declare the property surplus and approve marketing for sale.

Background: The property under consideration is located on the west side of Ohio at 33rd Street. This parcel was acquired in 2001 for development as two soccer fields. Subsequent to development, it was determined that a large site was desirable and new fields, along with parking and amenities were developed on a City-owned tract in the 3500 block of North Ohio. With the completion of these new fields, this parcel is surplus to City's needs. The site is 5.67 acres in size and is zoned Heavy Industrial. All utilities are available to the site.

Analysis: All City departments and local government entities have been notified and have shown no interest in the property.

Financial Considerations: The City will receive cash consideration for the sale of the property. The surplus and sale of this property to a private party will place additional value into the tax base.

Legal Considerations: None

Recommendations/Actions: Declare the property as surplus and designate it as available for sale to the general public.

Agenda Item No. 20.

City of Wichita
City Council Meeting
February 14, 2006

Agenda Report No. 06-0158

TO: Mayor and City Council

SUBJECT: Parking Lots, Signage and Entry Drives (All Districts)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the bonding resolution and authorize initiation of the project.

Background: The Park and Recreation Department has a number of parking lots across the city which—by City Code—must be paved. In addition, entry drives to a number of Park and Recreation facilities and sites are in various stages of disrepair and in need of major reconstruction. Facilities and sites impacted include recreation centers, swimming pools, athletic fields, and parks. Furthermore, the Park and Recreation Department has utilized the same design for entrance signs for many decades and the current system has become outdated and unappealing. A new City logo developed and adopted several years ago has become a strong symbol for our city and current signs do not have the City seal to promote the parks correlation with other important City amenities.

Analysis: The 2006 Park Capital Improvement Program (CIP) includes funding for entrance signage and the paving and reconstruction of parking lots and entry drives. The City has identified the need to develop new sign standards for the park system. Design Services were contracted to Gardener Group and McLuggage, Vansickle and Perry which establish a new graphic standard and identity for the park system. This new entry sign standard will be constructed at several major parks. In addition, paving and reconstruction of entry drives and

parking lots will protect the City's investment in Park and Recreation facilities and amenities and enhance their use by fee-paying users, neighborhood groups, and citizens. Parking areas requiring compliance include the parking lot for Antoine Carr Basketball Courts in McAdams Park. In addition the house, out buildings and 0.77 acre lot at 5220 South Meridian Avenue has been identified as an opportunity purchase to solidify ownership of South Lakes Park and the entrance to the Softball Complex off of Meridian Avenue.

Financial Considerations: The 2006 Park CIP includes \$450,000 for the paving and reconstruction of parking lots and entry drives at Park and Recreation facilities and sites across the city. The funding source is general obligation bonds. Of the \$450,000 CIP fund, \$86,500 will be used for the Meridian property acquisition stated above, leaving a balance of \$363,500 to approve for this agenda item.

Legal Considerations: The Law Department has approved the bonding resolution as to form.

Recommendation/Action: It is recommended that the City Council 1) approve the bonding resolution; 2) authorize initiation of the project; 3) authorize the hiring of design consultants; and 4) authorize all necessary signatures.

Agenda Item No. 21.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0159

TO: Mayor and City Council

SUBJECT: Wichita Ice Center Equipment Replacement and Relocation (District IV)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the bonding resolution and authorize initiation of the project.

Background: The Park and Recreation Department was directed by City Council to take over the operations of the Wichita Ice Center on May 3, 2005, until a new management contract was approved. The Ice Center facility and most of the equipment will be ten years old this year resulting in equipment that has exceeded its useful life. The Council approved funding within the 2005 Park Capital Improvement Program (CIP) in the amount of \$70,000 to protect the City's investment and allow for capital improvements to the facility and replacement and repairs to equipment.

An immediate concern is the replacement and relocation of the cooling tower on the ground behind the compressor room. The cooling tower is an ammonia base heat exchange system located on the roof of the facility used to chill the ice. The current system has exceeded its useful life and continuously shuts down causing wet spots, which is hazardous to the users. As the weather impedes upon 70 degrees, the system is unable to maintain capacity, causing it to shut down and requires refreezing of the ice, increasing our utility cost and staff hours.

Other immediate needs are the replacement of the Zambonis that are used to maintain the ice. These will need to be replaced over the next two years. Also needed is the repair and redesigning of the seating area. This will meet the current ADA standards and will assist in the accommodation for potential revenue source during the off-season to help with the subsidy of operations.

Analysis: The 2005 Park Capital Improvement Program includes funding for the renovation of the Ice Center's facility and equipment. The capital plan calls for replacement and relocation of

the cooling tower, replacing a Zamboni, repairs or redesigning of the seating area to meet current ADA standards, and to accommodate a seating plan for a potential revenue source during the off-season.

Financial Considerations: The 2005 Park CIP includes funding of \$70,000 for the facility renovation at the Wichita Ice Center. The funding source is general obligation bonds.

Legal Considerations: The Law Department has approved the bonding resolution as to form.

Recommendation/Action: It is recommended that the City Council 1) approve the bonding resolution, 2) authorize initiation of the project, and 3) authorize all necessary signatures.

Agenda Item No. 22.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No.06-0160

TO: Mayor and City Council

SUBJECT: Public Internet Access-Central Library & Alford Regional Branch (Districts I & IV)

INITIATED BY: Library

AGENDA: Consent

Recommendation: Approve the selection of Network Tool and Die Company, Inc. as the Internet service provider for public computer access at the Wichita Public Library's Central branch and the Lionel Alford Regional branch library.

Background: Public access computing is an important part of the Library's information service mix. In 2005, customers completed 147,065 computer sessions in Library locations. To protect security of City computer systems, the department operates its public access computers on Internet connections separate from the City's computer network.

Analysis: Where possible, the Library makes use of Cox Communications' Project K.I.D.S program to obtain public Internet access at no charge. For these two locations that do not qualify for access to Project K.I.D.S., the Library contracts for Internet access from an Internet service provider. A Request for Proposal for Internet access was released in early January. After reviewing all responses, it was the unanimous consensus of the screening selection committee that Network Tool and Die Company, a local firm, is best positioned to provide the quality and consistency of access required by the Library.

Financial Considerations: Network Tool and Die Company proposes to provide six Mbps Internet access and two point-to-point Internet connections at an annual cost not to exceed \$24,000. The Library anticipates this fee to be reduced by 80% through subsidies from the Universal Service (e-rate) discount program. Initiation of service will be timed to maximize discount savings. Payment for this service will be funded through the Library's state grants-in-aid program.

Legal Considerations: Law Department will review and approve the contract as to form.

Recommendation/Action: Approve the selection of Network Tool and Die Company as the public Internet service provider for the Central Library and the Lionel Alford Regional Branch and authorize the Purchasing Manager to sign the contract.

Agenda Item No. 24.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0161

TO: Mayor and City Council

SUBJECT: Appeal of Board of Electrical Appeals Electrical Contractor License
Suspension/Probation – Saint Electric

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendation: Based on the evidence and testimony presented at the appeal hearing, reverse, affirm wholly or partly, or modify the decision of the Board of Electrical Appeals (Board) to suspend the electrical contractor's license of Saint Electric (Tom St. Peter, owner and qualified master electrician for the company) for a period of twelve months, effective January 10, 2006 (the Board's action granted probation from the effectiveness of such suspension for a period of twelve months, provided that Mr. St. Peter complies with the conditions of probation).

Background: Pursuant to Title 19, Chapter 19.08.015, "No apprentice electrician or helper shall install any electrical work within the city unless he or she is on the job site with and under the supervision of a master or journeyman electrician certified by the city."

On April 12, 2005, the Board of Electrical Appeals conducted a hearing to consider complaints by Office of Central Inspection staff that on several occasions over the last few years (prior to April 2005), uncertified employees of Saint Electric were found performing electrical work on job sites for Saint Electric without the required supervision of a master or journeyman level certified electrician. Mr. St. Peter was notified of the hearing, but was unable to attend. During the April 12, 2005 meeting, the Board took action to suspend the electrical contractor's license of Tom St. Peter.

Mr. St. Peter, through his attorney, filed an appeal of the Board's April 12, 2005 action. By agreement between Mr. St. Peter's attorney and the Board's attorney, the Board's suspension of Mr. St. Peter's license with respect to work on existing permits was delayed until the next regular meeting of the Board in May 2005. During the period of time between April 12, 2005, and the Board's meeting on May 10, 2005, Saint Electric was permitted to continue work on all of his existing permits/projects.

On April 13, 2005, the City sent Mr. St. Peter notice that the Board, at its May 10, 2005, meeting would consider taking action against his electrical contractor license for incidents in which uncertified employees of his company were performing electrical work without required supervision by a properly certified master or journeyman electrician. Both Mr. St. Peter and his attorney attended the Board's May 10, 2005 meeting. At that meeting the Board rescinded its prior action to suspend Mr. St. Peter's electrical contractor's license and took no action against his license as a result of matters considered by the Board at that meeting. *However, the Board directed the Superintendent of Central Inspection to send Tom St. Peter of Saint Electric a letter explaining OCI's interpretation regarding the minimum required supervision of uncertified apprentices/helpers at job sites. The Superintendent was also directed to issue an order for Mr. St. Peter to comply with the minimum requirements set forth in the in the letter and by the Electrical Code.*

On May 23, 2005, the Superintendent of Central Inspection sent Mr. St. Peter a letter in which Saint Electric was ordered to provide appropriate supervision of uncertified employees when they were performing electrical work. The order defined what the Superintendent considered

“electrical work”. It also defined what the Superintendent considered to be adequate supervision of non-certified employees.

On October 3, 2005, an electrical inspector for the Office of Central Inspection observed two employees of Saint Electric performing electrical work at 12125 E. Andrea in the City of Wichita, Kansas. The inspector confirmed that the employees were not certified electricians, and that no licensed journeyman or master electrician was on site supervising these employees.

On October 13, 2005, notice was sent to inform Mr. St. Peter that the Board would consider action against his electrical contractor’s license on the basis that Mr. St. Peter failed to comply with the order of the Superintendent of Central Inspection by permitting his uncertified employees to do electrical work while unsupervised, and that a hearing to consider the matter was scheduled for the Board’s regular meeting on November 8, 2005. At the request of Mr. St. Peter’s attorney, this hearing was continued to the Board’s regular meeting date of December 13, 2005.

Analysis: During the Board hearing on December 13, 2005, Mr. St. Peter admitted that he was at the work site on 12125 E. Andrea on October 3, 2005, and that he left the site and failed to direct his uncertified employees to cease doing electrical work during his absence. He further admitted that this action was in violation of the order of the Superintendent of Central Inspection set out in the letter dated May 23, 2005.

Based on the above, the Board found that Mr. Tom St. Peter failed to comply with a lawful and reasonable order of the Superintendent of Central Inspection, in violation of the provisions of Section 19.08.050(b)(3) of the Code of the City of Wichita, by permitting his uncertified employees to perform electrical work while unsupervised at 12125 E. Andrea on October 3, 2005.

Due to such violation, the Board suspended the electrical contractor’s license of Thomas St. Peter for a period of 12 months effective January 10, 2006. *However, Mr. St. Peter was granted probation from the effectiveness of the suspension for a period of 12 months, so long as he complied with the conditions of such probation.* The stated conditions of probation are that Mr. St. Peter does not violate Section 19.08.050 of the Code of the City of Wichita and, more specifically, that he does not violate the order of the Superintendent of Central Inspection as contained in the letter of May 23, 2005.

The “Findings of Fact” statement considered by the Board in rendering its decision is attached.

Legal Considerations: Pursuant to Title 19, Chapter 19.08.050 of the Code of the City of Wichita, the Board of Electrical Appeals is authorized to cancel and recall the license of any electrical contractor for a number of reasons, including, “Committing of any act in violation of any provisions of this code or any other ordinance of the city, or the refusal or failure to comply with any lawful and reasonable order of the central inspection superintendent or inspector.”

Mr. St. Peter, owner and qualified master electrician for Saint Electric, was properly notified of the Board’s hearing to consider action against his electrical contractor’s license, and has been notified of the date and time of this City Council appeal.

Recommendations/Actions: It is recommended that the City Council reverse, affirm wholly or partly, or modify the decision of the Board of Electrical Appeals (Board) to suspend the electrical contractor’s license of Saint Electric.

Agenda Item 25.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0162

TO: Mayor and City Council

SUBJECT: Extension of IRB Tax Exemption (Dean & DeLuca, Inc.) (District I)

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendation: Approve a one-year extension.

Background: On December 12, 2000, City Council approved issuance of Industrial Revenue Bonds in three series: Series IX-A in the aggregate principal amount of \$2,760,000; Series IX-B, in the aggregate principal amount of \$660,724, and Series IX-C in the aggregate principal amount of \$1,568,751 to Dean and DeLuca, Inc. In conjunction with the bond issue, City Council approved a 100% property tax abatement on bond-financed property for a 5-year, plus a second 5 years subject to Council review. Bond proceeds were used for the expansion of a 52,000 s.f. building addition at Dean & DeLuca's existing facility located 2526 E. 36th Street N. Circle. On December 31, 2005, the initial five-year period for tax exemption expired. Dean & DeLuca requests the City Council approve the second five years of tax exemption on bond-financed property.

Analysis Dean & DeLuca, Inc. is a purveyor of gourmet and specialty foods, wines and kitchenware. In addition to five specialty markets, eight cafés and one wine store spread throughout the United States, bulk of sales are made through the company's Internet/Direct operations—comprised of a Website and mail order catalogues, with expected circulation of approximately thirteen million orders filled during the year 2000 from the distribution center in Wichita.

As a condition of the bond issue and tax exemption, Dean & DeLuca committed to construct a 52,000 s.f. building addition with a total investment of \$4,989,475, and create 255 new jobs within five years of the bond issue.

A measure of Dean & DeLuca's initial five-year project commitments and outcomes are as follows:

<u>2000 Commitment</u>	<u>December 31, 2005 Status</u>
<ul style="list-style-type: none">Construct new building additionCreate 255 new jobs in five years:	<p>Completed 52,000 s.f. building addition</p> <p>Created 137 new jobs</p>

Staff conducted a site-monitoring visit on September 30, 2004. Dean & DeLuca has come more than half way of meeting its job projection by creating 137 new permanent jobs. The company reports that the terrorist attacks of 9-11-2001 and the ensuing economic downturn has prevented the company from adding employees. As the economy has started to rebound, the company has started to increase its capacity and begin hiring again.

Dean & DeLuca has recently expanded its presence in Wichita by purchasing a former radio station facility at 2416 E. 37th St. N. for use as a corporate office for Dean & DeLuca and other Leslie Rudd-owned enterprises.

Financial Considerations: In 2001, the appraised value of the exempted property was approximately \$3,894,350. That property's current appraised value is approximately \$3,024,870. Based on the 2005 mill levy, the 2006 taxes on the exempted property will be approximately \$343,190. Dean & DeLuca is current in payments of administrative service fees.

New benefit-to-cost ratios are as follow:

City of Wichita	1.23 to one
Sedgwick County	1.04 to one
USD 259	1.00 to one
State of Kansas	2.31 to one

Legal Considerations: Section 7.5 of the lease provides the City Council reserves the right to terminate the exemption at the end of the first five-year period.

Each year, the City must re-certify to the County Clerk that the exempted property is still eligible in order to continue the property tax exemption for that year. This allows the City Council to review non-complying companies each year and revisit the decision to extend the exemption.

Recommendations/Actions: It is recommended that the City Council extend the tax exemption on Dean & DeLuca's IRB Bond-financed property for a one-year period and review the further extensions at the end of this year.

Agenda Item No. 26.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0163

TO: Mayor and City Council

SUBJECT: Extension of IRB Tax Exemption (NMF America, Inc.)(District II)

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendation: Approve a one-year extension

Background: On July 18, 2000, City Council approved issuance of Industrial Revenue Bonds in the amount of \$5 million to NMF America, Inc. In conjunction with the bond issue, City Council approved a 100% property tax abatement for a 5-year term on the project, plus a second 5 years subject to Council review. Bond proceeds were used to construct and equip a 40,000 s.f. manufacturing plant.

On November 18, 2003, the City Council approved the consent to transfer and sale of NMF America to SONACA America. NMF America had experienced severe financial pressures. SONACA (Societe Nationale de Construction Aeospaciale) NMF is a Belgian aerospace company. On December 31, 2005, the initial five-year period for tax exemption expired. NMF America, Inc. requests the City Council approve the second five years of tax exemption on bond-financed property.

Analysis NMF America, Inc. is a leader in the aerospace niche market of wing skin manufacturing, with annual sales of \$20 million. NMF America, Inc. manufacturing process involves the forming and finishing of aluminum wing panels used in the

manufacture of business and regional jets, primarily for the Bombardier line of aircraft. NMF's decision to come to the Wichita area was motivated in large part by Bombardier's desire to have this prime sub-contractor located closer to what has become an important production center for Bombardier. They are also motivated by the opportunity to develop business relationships with the other aircraft manufacturers located in Wichita. NMF estimates that their products are present on 80% of all business jets being currently manufactured.

As a condition of the bond issue and tax exemption, NMF America committed to construct and install certain manufacturing equipment, with a total investment of \$5,000,000, and create 100 new jobs within five years of the bond issue.

A measure of NMF America's initial five-year project commitments and outcomes are as follows:

<u>2000 Commitment</u>	<u>December 31, 2005 Status</u>
• Construct new building addition	Completed 40,000 s.f. manufacturing plant
• Purchase Manufacturing Equipment: \$2,120,300	Purchased equipment worth over
• Create 100 new jobs in five years:	Created 76 new jobs

Staff conducted a site-monitoring visit on May 20, 2003. NMF has come more than 3/4 of the way of meeting its job projection by creating 76 new permanent jobs. The company cites the events of 9/11/01 as the reason it was not able to meet its job creation commitment.

NMF has expanded its client base to include the military aerospace industry. As the economy has started to rebound, the company has started to increase its capacity and begin hiring again. The company often receives international visitors from Japan, Brazil, Canada, and Belgium on a monthly basis.

Financial Considerations: In 2001, the appraised value of the exempted property was approximately \$3,611,215. That property's current appraised value is approximately \$3,596,320. Based on the 2005 mill levy, the 2006 taxes on the exempted property will be approximately \$423,632. NMF America is current in payments of administrative service fees. New benefit-to-cost ratios are as follow:

City of Wichita	1.64 to one
Sedgwick County	1.15 to one
USD 259	1.00 to one
State of Kansas	4.40 to one

Legal Considerations: Section 7.5 of the lease provides the City Council reserves the right to terminate the exemption at the end of the first five-year period.

Each year, the City must re-certify to the County Clerk that the exempted property is still eligible in order to continue the property tax exemption for that year. This allows the City Council to review non-complying companies each year and revisit the decision to extend the exemption.

Recommendations/Actions: It is recommended that the City Council extend the tax exemption on NMF's IRB Bond-financed property for a one-year period and review the further extensions at the end of this year.

Agenda Item No. 27.

Agenda Report No. 06-0145

TO: Mayor and City Council

SUBJECT: 2006 Wichita Aviation Festival

INITIATED BY: Division of Arts and Culture

AGENDA: New Business

Recommendation: Approve the contract with Wichita Festivals, Inc. (WFI) to produce, market and manage the 2006 Wichita Flight Festival for the City of Wichita, Kansas (City) to be held in the Fall of 2006 on a date or dates to be determined, in the amount of \$75,000 and approve operating budget of \$336,000 to be paid from the Convention & Tourism Fund.

Background: WFI successfully fulfilled the requirements as stipulated in their contract with the City for completion of the 2005 Wichita Flight Festival. Upon completion of a successful 2005 festival, WFI has concluded they have the professional services to produce, market, and manage the 2006 Wichita Flight Festival, which will include the following components.

- Event concept development and strategic planning;
- Site evaluation and planning;
- Promotion/marketing plan;
- Budget planning;
- Ticketing;
- Facility preparation and operations;
- Airshow and attractions and;
- Performance criteria and financials.

Analysis: It was deemed by City Council that WFI should produce, market, and manage the 2005 Wichita Flight Festival. WFI is ready, willing, and able to provide the professional services necessary to accomplish the 2006 Wichita Flight Festival as concluded by the past performance of successful production, marketing, and management of the River Festival and the 2005 Wichita Flight Festival.

The proposed WFI contract will include an up front payment of \$25,000 from the City, with additional amounts paid based on the completion of agreed project milestones. A retainer of \$10,000 will be withheld pending successful completion of all the tasks outlined in the contract and this scope of work. The City desires a festival that is both economically sound and has high public appeal. An expected performance benchmark is 9,000 in paid ticket sales. WFI will submit to the City financial reports detailing budget projections and actual expenditures. The first report will be due six months from the contract execution date, with reports also due two months before the event and 30 after the event.

Financial Considerations: The City will provide \$75,000 in funding to WFI for successful completion of this contract. A project budget of \$336,000 is proposed for the 2006 Wichita Flight Festival. This will fund primarily entertainment, security, facilitated charges, promotion, and a variety of ancillary costs. Revenue is estimated at \$261,000, derived mostly from sponsorships, admission fees and concessions. An operating deficit of \$75,000 is assumed for the 2006 festival. However, the actual deficit could be as high as \$336,000 or as low at \$0. After the conclusion of the festival, a transfer from the Tourism and Convention Fund will offset any project deficit.

Legal Considerations: Law Department has prepared and approved the Agreement for Production, Marketing and Management of the 2006 Wichita Flight Festival.

Recommendations/Actions: Approval of the contract with WFI for \$75,000, approval of the 2006 Wichita Flight Festival project budget of \$336,000, and approval of the transfer of funds

and any necessary budget adjustments from the Tourism and Convention Fund to cover any project deficit, up to \$336,000.

Agenda Item No. 28.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0165

TO: Mayor and City Council

SUBJECT: Contact Renewal: Convention & Visitors Bureau

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendation: Approve the contract.

Background: 2005 brought several successes to the GWCVB. They met their primary goal of securing 102,000 convention room nights as well as 4,180 group tours – exceeding that goal to 4,904 passengers that visited Wichita for a group tour. They also increased their membership, helping lead the way for additional private investment and in-kind funds exceeding their goal of \$275,000. The only goal not met was on overnight group tour sales, with a goal of 2,856 people and the actual amount of 1,546. Bus tours are simply not as popular as had been in the past.

Analysis: The Contract for the current fiscal year was negotiated with staff and representatives from the Greater Wichita Convention and Visitors Bureau. The results are a proposed 2006 contract with important goals for the CVB outlined in detail in “Exhibit B.” Exhibit B also has some changes worth noting. A special effort was made to include relevant and measurable goals in a performance matrix that will better showcase the progress of the CVB. For the first time, there are now established benchmark goals – a better foundation to increase every year, rather than incrementally as in the past. For example, efforts will now track room nights by using an average number from the benchmark established over the past five years and increase based on that number. This avoids being eventually “topped out” on room night goals and allows for peaks and valleys such as when large conventions are in town. The CVB will continue to strive to exceed the base goal and try and secure larger conventions approximately every 5 years. A new contract highlight is on #6B that challenges the GWCVB to raise more cash, with the reward of a dollar per dollar match if they exceed their goal (capped at \$75,000).

Financial Considerations: The proposed budget with the GWCVB provides for funding for \$1,750,330. The 2006 contract increases the CVB's allocation by \$34,510 from 2005 Adopted allocation of \$1,715,820. The Tourism and Convention Fund will also finance an additional payment of up to \$75,000 to the GWCVB, as a dollar for dollar match for any funds raised in 2006 over the baseline goal of \$200,000.

Legal Considerations: The agreement has been approved as to form by the Department of Law.

Recommendations/Actions: It is recommended that the City Council approve the Contract with the Convention and Tourism Bureau and authorize the necessary signatures.

EXHIBIT B

Greater Wichita Convention & Visitors Bureau
2006 Performance Criteria

It is mutually agreed and understood by the City of Wichita and the Wichita Convention and Tourism Bureau, Inc., d/b/a Greater Wichita Convention & Visitors Bureau, hereinafter referred to as the "City" and the "Delegate Agency" respectively, that the execution of this contract commits the Delegate Agency to the following goal statements and objectives.

MISSION STATEMENT

The mission of the Greater Wichita Convention & Visitors Bureau is to market the Greater Wichita Area as a destination, thereby enhancing the economic development of the city, county, region and state.

OBJECTIVE # 1: The Delegate Agency will generate convention/meeting and travel trade business for Wichita.

A. Convention Sales Future Bookings (Conventions booked from Jan 1-Dec. 31, 2006):

1. Generate **102,250** room nights for a direct economic revenue impact of **\$36,677,075**.
2. Maintain a five-year average of **124,400** room nights.
3. 30% of room night goal will consist of **NEW** convention business.

	2001	2002	2003	2004	2005
Room Nights Secured	102,806	105,518	111,648	200,128	102,072
Church of God in Christ	(10,200)				
ABC				(85,000)	
NSD				(8,000)	
NFL				(12,713)	
Room Nights net of Large Bookings: (greater than 5000 room nights)	92,606	105,518	111,648	94,415	102,072
Five Year Average of typical bookings	506,259				
Annual Goal:	101,252				
Five Year Average Including Large bookings	622,172				
Five Year Average Goal:	124,434				

- Economic Impact Formula: Room Nights X 1.7 average guest per room x \$211.00 expenditure level = direct revenue (source: DMAI)

B. Tourism Sales Bookings (Tours hosted from Jan1-Dec 31, 2006):

1. Motorcoach Overnight Tours: Generate overnight tours utilizing a total of **2,050** room nights with a direct economic revenue impact of **\$246,000** (assuming one night stay).

- a. Maintain a five-year average of **2,099** room nights.

Overnight Rooms	2001	2002	2003	2004	2005
Room Nights Secured	1,823	2,005	2,384	2,736	1,546

WIBC		(292)				
Room Nights net of Large Bookings:	1,823	2,005	2,384	2,444	1,546	
Five Year Average of typical bookings	10,202					
Annual Goal:	2,040					
Five Year Average Including Large bookings	10,494					
Five Year Average Goal:	2,099					

Direct Revenue Formula: # of passengers x \$120.00 expenditure level x # nights. (source=DMAI)

2. Motorcoach Day Trips: Generate 100-Day Trips comprised of **4,000** passengers for a direct economic impact of **\$230,400**.

Day Trip Passengers	2,579	3,448	3,630	3,603	4,904
Five Year Average of typical bookings	18,164				
Annual Goal:	3,633				

Direct Revenue Formula: # of passengers x \$57.60 (Average daily expenditures). (source = DMAI)

OBJECTIVE #2 (Marketing & Promotion) - Continue Implementation of a multi-faceted marketing program promoting Wichita as a Destination

1. Increase regional and statewide radio listeners:

2005 Listeners	2006 Listeners	% Increase
47,193,791	49,521,981	5%

2. Increase regional and statewide billboard impressions:

2005 Impressions	2006 Impressions	% Increase
76,441,597	79,117,053	3.5%

3. Maintain high volume of quality national, regional and statewide print advertising impressions:

2005 Impressions	2006 Impressions
5,307,489	4,587,925

- 2005 includes special event advertising that will be promoted

- through radio spots in 2006.

4. Increase website unique visits and page views:

	2003	2004	2005	3-Yr Avg.	2006 Goal
Unique Visits	6,451,320	6,497,872	9,666,256	7,538,483	8,500,000
Page Views	1,081,215	845,302	950,383	958,967	1,000,000

5. Increase regional and statewide visitor guide distribution sites:

2004 Distribution sites	2005 Distribution sites	2006 Distribution sites (contracted)
75	232	371

6. Increase number of contacts with media/travel writers:

2003 Contacts	2004 Contacts	2005 Contacts	3-Yr Avg.	2006 Goal
69	73	112	85	90

OBJECTIVE #3 (Awareness & Community Support): Generate positive awareness of Wichita as a leisure, convention and business destination and build community support for the Delegate Agency and it's mission, vision and goals.

1. Hospitality Training Program (Customer Service Professional - CSP)
a. Increase number of sessions offered/number of certifications given:

	2005	2006 Goal
Sessions	3	6
Participants	53	120
Certifications	11	35

2. Increase number of local speaking engagements:

	2003	2004	2005	3-yr Avg.	2006 goal
Number of Speaking engagements	29	22	22	24	35

3. Coordinate and publish a Quarterly Calendar of Events.
a. Maintain high volume of impressions:

2003	2004	2005	2006 anticipated
1,636,000	1,627,900	1,627,900	1,588,840

*

* Contracted media anticipates decreased distribution.

OBJECTIVE #4 (Visitor Experience) Monitor visitor experience and market research to make data driven decisions so as to maximize the use of marketing dollars.

1. Conduct semi-annual surveys of in-market leisure (visitor inquiries) to track: the visitors' willingness to return; why they came; where they came from; dollars spent; and their visit satisfiers

2. Perform post-convention surveys to ascertain customer satisfaction, future meeting plans and identification of visitor experience enhancements that may be necessary to capture new markets.

OBJECTIVE #5 (Wichita Film Commission)

1. Continue with film and production crew assistance. In 2005, the Wichita film commission assisted 42 production company/film contacts.

OBJECTIVE #6 (Funding): Secure additional private funding resources to augment the Delegate Agency's transient guest tax allocation.

In-Kind & Cash

- a. Aggressively seek **\$150,000** in in-kind contributions from hospitality industry partners to augment the Delegate Agency's marketing efforts.

	2005	2004	2003	2002
In-kind Donations	\$114,576	\$2,539,649	\$3,544,518	\$197,706
Less: Extraordinary Media Gifts:		\$(2,439,911)	\$(3,415,886)	
Typical Gift value:	\$114,526	\$99,738	\$128,632	\$197,706
In-kind donations (2002-2005)	\$540,652			
Four-year average:	\$135,163			

- b. CVB will aggressively seek to increase private funding to a level greater than **\$185,000**. The City of Wichita agrees to match each dollar collected **above \$200,000**, not exceeding \$75,000 in additional matched funds.

	2006 Budget	2005	2004	2003	2002	2001	2000	1999
Private Revenues	\$208,917	\$228,220	\$248,615	\$163,276	\$144,863	\$214,097	\$124,309	\$138,655
Less: Extraordinary receipts:								
WIBC partners to cover WIBC expenses			\$(64,000)	-	-	-	-	-
Cooperative Advertising (County funded)						\$(50,000)		
Typical Receipts:	\$208,917	\$228,220	\$184,615	\$163,276	\$144,863	\$164,097	\$124,309	\$138,655
Private revenue collections (2001-2005)		\$885,071						
Five-year Average:		\$177,014						
2006 Benchmark:	\$185,000	*						

* The 2006 benchmark is computed by analyzing historical receipts in conjunction with the current year budget.

OBJECTIVE #7 (Product Development): The Delegate Agency will support and influence the development and maintenance of accommodations, facilities, attractions and infrastructure that are consistent with the Delegate Agency's mission statement and that meet the needs of the visitors.

Industry Indicators:

The Delegate Agency will quarterly track the following industry indicators, which reflect the economic growth and impact of tourism in the area.

- Transient Guest Tax Revenues
- Hotel Occupancy Rate
- Hotel Average Daily Rate (ADR)
- Report quarterly and yearly historical comparison at area attractions.

2006 Operation Budget Approved 2006

Personnel	919,275
Marketing & Events	525,070
General	<u>305,985</u>
TOTAL 2006 BUDGET	\$1,750,330

1. **METHOD OF PAYMENT**

The Delegate Agency agrees payments under this contract shall be in accordance with established budgetary, purchasing and accounting procedures of the City of Wichita.

- 1.1. The City agrees to advance the Delegate Agency \$145,861 upon submittal by the Delegate Agency of the following: a) a written request for the advance. Said advance will be deducted in full from the reimbursement at the end of the contract period. Should 2006 transient guest tax revenues exceed budgeted projections, the City, at the Delegate Agency's request, will consider additional funding for special tourism projects that will enhance tourism initiatives.
- 1.2. The City agrees, after the initial advance, to reimburse the Delegate Agency on a monthly basis upon submittal of an invoice from the Delegate Agency. The City may request additional justification regarding items submitted for reimbursement and may decline payment for items not related to the promotion of convention

and tourism in the city of Wichita, subject to discussion and resolution by and between the City Manager and the President/CEO of the Delegate Agency.

2. The Delegate Agency agrees to provide the City with the following information:
 - 2.1. A monthly printout, which reflects all actual expenditures by line item and program expenditure.
 - 2.2. An annual audit conducted by an independent Certified Public Accountant, which is in accordance with generally accepted audit standards. For 2005, the audit firm of BKD, LLP has been retained by the Delegate Agency.
 - 2.3. The Delegate Agency will provide to the City Appointed Board Representative, a copy of the Board of Directors minutes.

3. **INVENTORY**

The Delegate Agency shall maintain in its office and file with the City an up-to-date inventory list of all personal property, e.g. furniture, fixtures, equipment, etc. purchased with transient guest tax funds and used for the administration of the program or in the administration of a project operated in conjunction with the contract. Such inventory list must identify each item purchased, state the physical location of same, the cost of each item, the date purchased and the City of Wichita inventory seal number must be affixed to each item. Authorized additional items purchased during the contract year shall be reported to the City within 30 days of receipt.

The Delegate Agency shall be responsible for conducting a physical inventory of each of the inventoried items with its final report for the contract year, certifying in written form that all such inventory items are in the possession of the Delegate Agency. No inventories items may be disposed of in any fashion without the prior written approval of the City.

4. **PROGRAM PROGRESS REPORTS**

The Delegate Agency as part of its obligation under section 3 of this contract shall submit a quarterly report to the City of Wichita for the quarters ending March 31, June 30, September 30, and December 31. These reports shall be due in the City Manager's Office in order to provide the City with the information to evaluate the Performance Criteria section of this contract. This report shall be submitted no later than 30 days following the end of each quarter.

WICHITA CONVENTION AND TOURISM BUREAU, INC.

CONTRACT

THIS CONTRACT entered into this 1st day of March, by and between the City of Wichita, Kansas (hereinafter referred to as the City) and Wichita Convention and Tourism Bureau, Inc. (hereinafter referred to as the Delegate Agency).

WHEREAS, the City by Charter Ordinance has instituted a Transient Guest Tax, the revenues from which are available for expenditure for convention and tourism activities located within the City and County; and

WHEREAS, the City believes that as a result of professional, promotional sales and services, convention and tourism can be increased; and

WHEREAS, the City desires to engage the Delegate Agency to render certain itemized professional services and activities hereinafter described; and

WHEREAS, the Delegate Agency warrants that it employs, and throughout the duration of this contract will continue to employ, professional staff capable of providing those services and activities occurring within the City; and

WHEREAS, the Delegate Agency further warrants that it possesses the fiscal and administrative capability necessary to account for and to expend all City funds provided in compliance and conformance with the terms and conditions of this contract; and

WHEREAS, the City desires to generate new dollars in the Wichita area economy through the promotion of Wichita as a convention and visitor destination.

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Delegate Agency, assuming responsibility for the implementation of actual operation of a certain project herein specified, shall perform services in a satisfactory and proper manner as determined by the City and outlined per Exhibit B.

In addition, Delegate Agency will support a joint marketing venture with other agencies receiving Transient Guest Tax funds and will not charge other City-affiliated museums or attractions such as, but not limited to, the Wichita Art Museum, Botanica, and the Mid-America All-Indian Center fees to participate in Delegate Agency's marketing or membership activities.

SECTION 2. TIME OF PERFORMANCE. The services of the Delegate Agency are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of this contract through a period of twelve months ending no later than December 31, 2006.

SECTION 3. RECORDS, REPORTS AND INSPECTION

A. Establishment and Maintenance of Records. The Delegate Agency shall establish and maintain records as prescribed by the City (with respect to all matters covered by this contract). Except as otherwise authorized by the City, the Delegate Agency shall retain such financial records for a period of three years after receipt of the final payment under this contract or termination of this contract.

B. Documentation of Costs. All costs with respect to the services per Exhibit B shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and Information. The Delegate Agency, at such times and in such forms as the City may require, shall furnish to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract. The Delegate Agency will submit said reports on the date(s) designated by the City. In addition, the Delegate Agency will submit all regularly required reports as itemized on Exhibit B on the due dates established therein.

D. Audits and Inspections. The Delegate Agency shall at any time during normal business hours and as often as the City may deem necessary make available to the City for examination all of its records and data with respect to all matters covered by this contract and shall permit the City or its designated authorized representative to audit and inspect all invoices, materials, payrolls, records of personnel conditions of employment and other data relating to all

matters covered by this contract. The Delegate Agency, within 120 days from the date of expiration of this contract shall furnish to the City an annual fiscal audit prepared by an independent Certified Public Accountant as to the compliance of all stipulations in this contract and its exhibits.

SECTION 4. CONFLICT OF INTEREST. Members of the Board of Directors of the Delegate Agency shall abstain from any action in regard to a pending matter before the Board of Directors that will affect any business in which such Trustee has a substantial interest as defined in K.S.A. 75-4301.

SECTION 5. DISCRIMINATION PROHIBITED. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, sex or age. (Reference Title VI of the Civil Rights Acts of 1964 Pub. L. 88-352). The Delegate Agency further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements" as provided in Exhibit A attached hereto.

SECTION 6. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments with respect to the services per Exhibit B.

SECTION 7. ASSIGNABILITY. The Delegate Agency shall not assign any interest in this contract without prior written consent of the City.

SECTION 8. COPYRIGHTS. If this contract results in a book or other materials which may be copyrighted, the author is free to copyright the work, but the City reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use all copyrighted materials and all material which can be copyrighted. The Delegate Agency agrees to allow the City use of any and all books or materials, copyrighted or otherwise, which may pertain to marketing, managerial, or financial operations of the Delegate Agency.

SECTION 9. USE AND DISPOSITION OF PROPERTY.

A. Ownership During Usage by Agency. All office equipment, supplies, materials and other personal property purchased in whole or in part with funds pursuant to this contract and used for the administration of this contract or in the administration of a program operated by the City shall be the sole and exclusive property of the City unless otherwise specified in Exhibit B.

B. Disposition of Personal Property. In the case of termination of the funding or of any individual project activity, all personal property in the possession of the Delegate Agency or the Agency's representative(s) purchased with funds under this contract shall be returned to the City immediately upon the termination of the contract. The Delegate Agency shall be responsible for any item(s) that are included on the Agency's inventory list. If these items are not returned to the City, the Agency shall forthwith reimburse the City for the appraised value of said item(s) less reasonable depreciation as mutually agreed by the City and the Delegate Agency, unless otherwise specified in Exhibit B.

SECTION 10. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Delegate Agency relative to conducting the operations of the project activities and services as herein described will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. In-Kind Compensation. The City of Wichita's IT/IS division will exclusively provide the design, development, maintenance, and hosting of the Delegate Agency's Web site including the related database. This includes providing security, backups, database access, server maintenance and upgrades, and other services related to the hosting of the Web site.

C. Total Payments. Total payments to the Delegate Agency will not exceed \$1,750,330, unless modified as provided herein.

D. Restriction on Disbursement. No transient guest tax funds shall be disbursed to a subcontractor of the Delegate Agency except pursuant to a written contract that incorporates by reference the general conditions of this contract.

E. Unearned Payments. Under this contract unearned payments may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by the City; or if it is determined that the transient guest tax revenues are not sufficient to meet all budgeted services and activities of the total transient guest tax budgets which are established for the year under which this contract is in effect.

SECTION 11. TERMINATION CLAUSE. Upon breach of the contract by the Delegate Agency, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 15, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. Upon cancellation or termination of this contract no further funds shall be payable or paid hereunder; and all funds remaining in the possession of the Delegate Agency at the time the City gives the cancellation notice shall be forthwith returned to the City. Upon breach of the contract by the Delegate Agency, it shall be entitled to be reimbursed by the City for actual expenditures incurred under the Contract.

SECTION 12. AMENDMENTS.

A. Changes. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Delegate Agency mutually agree, changes in this contract may be effected by placing them in written form and incorporating them into this contract.

B. Budget Transfers. All budget transfers shall be approved and signed by all the signatories of the original contract if such a transfer shall substantially change the intent of the contract. Upon determination by the City Manager such an amendment should be presented to the City Council for approval, he shall place the amendment on the City Manager's Agenda for consideration by that governing body.

SECTION 13. PERSONNEL AND SERVICES. All services required herein will be performed by the Delegate Agency under the direction of its Board of Directors or Directors.

SECTION 14. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of this contract.

SECTION 15. ANTI-TRUST LITIGATION. For good cause, and as consideration for execution of this contract, the Delegate Agency, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Delegate Agency pursuant to this contract.

SECTION 16. APPENDICES. All exhibits referred in this contract and all amendments of mutually agreed upon modification made by both parties are hereby incorporated as though fully set forth herein.

EXHIBIT A Nondiscrimination and Equal Employment Opportunity Statement

EXHIBIT B Performance Criteria

IN WITNESS WHEREOF, the parties have executed this contract on the 14th day of February, 2006.

THE CITY OF WICHITA, KANSAS

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

DELEGATE AGENCY

John Rolfe, President/CEO
Greater Wichita Convention &
Visitors Bureau, Inc.

Approved as to Form:

Gary E. Rebenstorf, Director of Law

Agenda Item No. 29.

City of Wichita
City Council Meeting
February 14, 2006

Agenda Report No. 06-0166

TO: Mayor and Members of the City Council

INITIATED BY: City Manager

AGENDA: New Business

Recommendation: Approve priorities.

Background: The City Council reviewed departmental requests for 2007 federal legislative assistance, at its February 7, 2006 workshop. Departments submitted a total of twenty-two requests for Council consideration. The discussion resulted in a number of suggestions by Council members. Letters to FEMA and the Corp of Engineers were to be drafted to ensure support of federal dollars for projects already committed to by the City of Wichita. Additionally, the Council requested that support for the Heartland Readiness Center be included in the Federal Agenda. The City Council was requested to choose eight priority departmental requests and to add Council priorities not suggested by staff to the Agenda.

Analysis: At the February 7, 2006 workshop the City Council discussed issues to be presented to the federal delegation. It was the consensus of the Council to have each council member rank the suggested issues and add other issues if desired. Staff tabulated the priority sheets, and due to a voting tie, identified the top ten federal legislative priorities. Funding amounts shown are only for federal dollars requested. Total project costs will be more fully defined in the Federal Agenda book. Federal priorities are shown on Attachment A.

Staff will prepare a 2007 Federal Legislative Requests notebook with the priority issues identified by the City Council to be followed by other issues of importance to the City. These issues will be presented as priorities during the meeting with the Kansas Congressional Delegation in Washington D.C during the NLC 2006 Annual Congressional City Conference (March 12-15).

Financial Consideration: Some federal requests require local matching funds. Historically, the City has identified a variety of sources to provide local matching funds and will continue to do so for City Council priorities.

Legal Considerations: Should federal funding be secured contracts and/or memorandums of understanding will be initiated as appropriate.

Recommendation/Action: It is recommended the City Council approve the 2007 Federal Legislative priorities.

FEDERAL AGENDA REQUESTS PRIORITY LIST

February 14, 2006

City Council Federal Priorities

1. Stop Blight (\$2 Million funding requested)
2. Cowskin Channel Improvements, Kellogg to Maple (\$1,665,855 requested appropriation to Army Corps)
3. Dry Creek Overflow (\$6 Million funding requested FY 2007, \$6 Million requested funding FY 2008)

4. Improvements to I-235 at US 54 and I-235 at Central Avenue Interchanges (\$3 Million funding requested in each of the next 3 fiscal years)
5. Rail Grade Separation Project (\$81.85 Million funding requested)
6. Wichita Area Drainage Master Study (\$1 Million funding requested)
7. 47th Street, 1-135 to Broadway (\$12.24 Million funding requested)
8. Industrial Corridor Revitalization Plan and Pre-engineering Designs – 21st Street Industrial Corridor (\$1.5 Million funding requested)
9. Business-Driven Technical Education (\$5 Million funding requested)
10. Heartland Readiness Center

Other Federal Departmental Requests

1. Arkansas River Water Quality Assessment & Protection Project (\$1.7 Million funding requested FY 2007 & \$1.9 requested FY 2008)
2. Affordable Housing Fund (\$1 Million funding requested)
3. Security System for Major City Buildings (\$765,000 funding requested)
4. Improvements to U.S. 54 (Kellogg) From I-35 to K-96 (\$104 Million funding requested)
5. Arkansas River Dam Near John Mack Bridge (\$11 Million Funding requested)
6. Dunbar Theater Redevelopment (\$1.5 Million funding requested)
7. Central Northeast Area Sidewalk Improvements (\$2 Million funding requested)
8. Historic Midtown Neighborhood Storm Water Drainage Plan (\$300,000 funding requested)
9. Central Northeast Area Lighting Improvements (\$500,000 funding requested)
10. Watson Park-Herman Hill Park Pedestrian Bridge (\$5 Million funding requested)
11. At Grade Rail Crossings – 21st Street Industrial Corridor (\$2,705,000 funding requested)
12. Streamlined Sales Tax (no funding requested)
13. Protection of Local Telecommunications Franchise Powers (no funding requested)

Agenda Item No. 30.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0167

TO: Mayor and City Council Members

SUBJECT: Street Performer Ordinance

INITIATED BY: Department of Arts & Cultural Services

AGENDA: New Business

Recommendation: Approve the ordinance allowing and setting forth guidelines and restrictions for street performances.

Background:. The City Council has found the existence of street performers provides a public amenity that enhances the character of the City and seeks to encourage such performances in a manner that is consistent with overall public interest. A committee consisting of the Wichita Downtown Development Corporation, Staff from the Division of Arts & Cultural Services and the City Legal Department met to draw up a set of guidelines and criteria for this Chapter designed to encourage performances by street performers while protecting the safety and civil liberties of local citizenry.

Analysis: Guidelines included in the chapter set distance limitations from businesses, residences and public service amenities applicable to performers and crowds they attract. It also imposes reasonable time, place, and manner restrictions on street performers to the extent necessary to ensure the safety of the performers, their audiences and the general public, the orderly movement of traffic and to prevent unreasonable interference with residents' enjoyment and peace and quiet in their homes or the ability for businesses to operate and conduct their business.

This Chapter does not require license fees for expressive performances, but does require ancillary sales activities comply with existing City Code provisions when applicable. An inconsistent provision in the Code relating to loitering is amended as appropriate.

Financial Considerations: No financial considerations

Legal Considerations: Law Department has prepared and approved the proposed ordinance. .

Recommendations/Actions: Approve the ordinance creating new regulations regulating street performers and modifying the City Code relating to loitering.

Agenda Item No. 31.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0168

TO: Mayor and City Council Members

SUBJECT: Petitions to construct Paving and Water Improvements in Krug North, Krug North 2nd and East Side Community Church Additions (north of 21st, west of 143rd St. East) (District II)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the new Petitions.

Background: On April 13, 2004, and July 20, 2004, the City Council approved paving and water Petitions for Krug North Addition and East Side Community Church Addition. A portion of Krug North Addition was subsequently replatted into Krug North 2nd Addition. The developer has submitted new Petitions to modify the assessments to the undeveloped lots in the improvement districts to reflect the platting of Krug North 2nd Addition. The lots that have been purchased by new home buyers will not be affected. The Petitions have been signed by Ritchie Development Corporation, various home builders, and East Side Community Church of God, who own all the affected lots. Those signatures represent 82% of the improvement district and 100% of the lots affected by the new Petitions.

Analysis: The projects will provide paving and water improvements for residential and church developments located north of 21st, west of 143rd St. East.

Financial Considerations: The Petition budgets are unaffected.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the new Petitions, adopt the Resolutions and authorize the necessary signatures.

Agenda Item No. 32.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0169

TO: Mayor and City Council Members

SUBJECT: Petition to construct a Storm Water Sewer to serve Lots 25-36, Block 13, Pawnee
Mesa
Addition (north of Pawnee, east of 119th St. West) (District IV)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the Petition.

Background: The signatures on the Petition represents 15 of 22 (68.2%) resident owners and 74.5% of the improvement district area. District IV Advisory Board sponsored a January 18, 2005, neighborhood hearing on the project. The Board voted 9-2 to recommend approval of the project.

Analysis: The project will construct a storm water sewer for a residential area with back yards that do not drain properly, resulting in stagnant water that kills grass and can breed mosquitoes.

Financial Considerations: The project budget contained in the Petition is \$90,000, with the total assessed to the improvement district. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.95 per square foot of ownership. In addition,

it is proposed that the project budget be increased to include work in Pawnee Street right-of-way. The estimated cost of the additional work is \$45,000, funded by the Storm Water Utility, for a total cost of \$135,000. Funding for the Utility share is budgeted in the Drainage Hot Spot Program.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the Petition with the \$45,000 budget increase, adopt the Resolution and authorize the necessary signatures.

Agenda Item No. 33.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0170

TO: Mayor and City Council Members

SUBJECT: Harry Street Improvement, from K-42 Highway to Meridian (District IV)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendations: Approve the revised project budget.

Background: On September 20, 2005, the City Council approved a project to improve Harry Street, from K-42 Highway to Meridian. Based on recent bid prices, it is doubtful that a construction contract can be awarded within the project budget approved by the City Council. An amending Ordinance has been prepared to increase the project budget.

Analysis: The project will reconstruct Harry to provide two through lanes and a center two-way left turn lane. A new storm water sewer will be built. Construction is planned for this year.

Financial Considerations: The current budget is \$995,000 with the total paid by General Obligation Bonds. The proposed increased budget is \$1,400,000 with the total paid by General Obligation Bonds. Funding for the increased budget is available from under expenditures in the Meridian improvement, between 31st St. South and Pawnee.

Legal Considerations: The Law Department has approved the amending Ordinance as to legal form.

Recommendation/Actions: It is recommended that the City Council approve the revised project budget and place the amending Ordinance on First Reading.

Agenda Item No. 34.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0171

TO: Mayor and City Council Members

**SUBJECT: SUB 2003-82 -- Plat of Stonebridge Addition, Located West of 159th Street East
and on
the North Side of 13th Street North.**

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

Background: This site, consisting of 165 lots on 75.36 acres, is located in the County within three miles of Wichita's city limits. A County zone change (ZON 2003-41) from SF-20, Single-Family Residential District to SF-5, Single-Family Residential District has been approved.

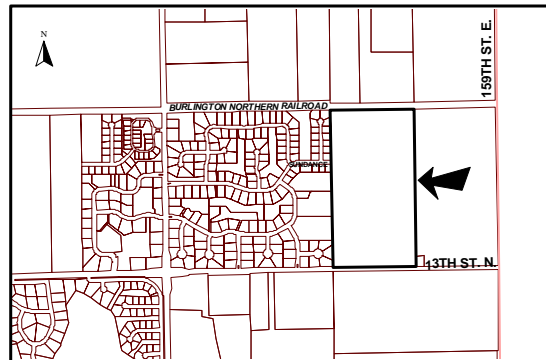
Analysis: A petition for paving and drainage improvements will be handled by the County. Other petitions, 100%, have been submitted to the City for sewer and water improvements. Both a City and County Certificate of Petitions have also been submitted. Restrictive Covenants were submitted to: 1) create a Lot Owners' Association for the ownership and maintenance of the proposed reserves being platted for drainage purposes; 2) provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street; and 3) allow for an emergency access opening. An Outside the City Water Agreement has also been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Financial Consideration: None.

Legal Considerations: The Certificate of Petitions, Restrictive Covenants and Application for Water Service will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures and adopt the Resolutions.



Agenda Item No. 35.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0172

TO: Mayor and City Council Members

SUBJECT: SUB 2005-40 -- Plat of The Woods Addition, Located East of 151st Street West and

on
the North Side of Maple. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (8-4)

The four Planning Commissioners that voted in opposition had concerns regarding a bike path easement.

Background: This site, consisting of 109 lots on 75.30 acres, was recently annexed into Wichita's city limits. This site is zoned SF-5, Single-family Residential District.

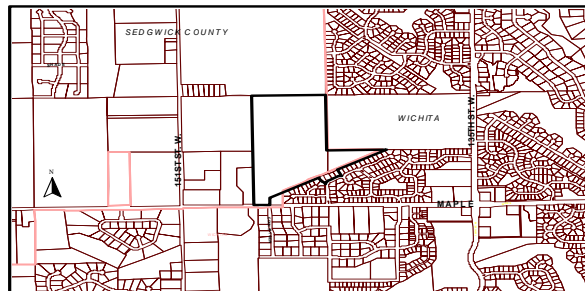
Analysis: Petitions, 100 percent, and a Certificate of Petitions have been submitted for sewer, water, paving and drainage improvements. Restrictive Covenants were submitted to: 1) create a Lot Owners' Association for the ownership and maintenance of the proposed reserves being platted for drainage purposes; 2) provide four off-street parking spaces per dwelling unit on each lot that abuts a 32 or 58-foot street; and 3) outline restrictions for lot-owner use for platting of narrow street right-of-way with adjacent 15-foot street drainage and utility easements.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Financial Consideration: None.

Legal Considerations: The Certificate of Petitions and Restrictive Covenants will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat and authorize the necessary signatures.



Agenda Item No. 36.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0173

TO: Mayor and City Council Members

SUBJECT: A06-06R Request by Ronald J. Cornejo, of R.R.M. Properties, L.L.C., to Annex land generally located to the west of Greenwich Road, between 21st Street and 13th Street. (District II)

AGENDA: Planning (Consent)

Recommendation: Place the annexation ordinance on first reading.

Background: The City has received a request to annex 10.8 acres of land generally located west of Greenwich Road, between 21st Street and 13th Street. The annexation area abuts the City of Wichita to the north. The proposed property is currently developed with a 2,532 sq. ft. industrial structure with approximately 45,000 sq. ft. of exterior site improvements. The property owner does not anticipate any further development of the proposed property at this time.

Analysis:

Land Use and Zoning: The proposed annexation consists of approximately 10.8 acres of property currently zoned "GI" General Industrial, which upon annexation will remain "GI" General Industrial. Property to the south of the subject property is zoned "GI" General Industrial and is currently developed for industrial uses. The property to the west of the subject property is zoned "LI" Limited Industrial, while property to the east of the subject property is zoned "SF-20" Single-Family Residential. Property to the north is zoned "SF-5" Single-Family Residential. Properties to the north, east and west are currently vacant. In addition, along the north edge of the property is an old railroad line that is scheduled to be railbanked by the City in the near future.

Public Services: A 16" water main is under construction in Greenwich across the east side of the subject property. The nearest sewer line are a 21" main north of the railroad right-of-way and KGE highline easement or an 8" line about 1/4 mile east of the subject property at the Chapel Hill Addition.

Street System: The subject property borders Greenwich Road to the east, which is currently a paved, two-lane road. The City of Wichita Capital Improvement Program (CIP) 2005-2014 has scheduled Greenwich Road to be widened, east of the subject property, from Central to 29th Street. The Sedgwick County Capital Improvement Program 2006-2010 and the 2006 Transportation Improvement Program do not call for improvements at the proposed annexation site.

Public Safety: Fire services to this site can be provided by the City of Wichita within a five (5) to six (6) minute approximate response time from City Station No. 18, located at 2808 N. Webb. Upon annexation, police protection will be provided to the area by the Patrol East Bureau of the Wichita Police Department, headquartered at 350 S. Edgemoor.

Parks: Northeast Sports Complex, a 60-acre park, is located approximately 2 miles to the north of the proposed annexation site and is currently being developed for youth athletics. Eastview Park, a 20-acre park, is located approximately 3 miles to the west from the proposed annexation site and contains a paved exercise trail with 20 exercise stations, a softball diamond, 2 lighted tennis courts, a soccer field, children's play area and a parking lot. According to the 1996 Parks and Open Space Master Plan, a pathway has been proposed that would run along the north edge of the proposed property, along the old railroad right-of-way.

School District: The annexation property is part of the Unified School Districts 259 (Wichita School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2030 Wichita Urban Growth Area as shown in the Plan.

Financial Considerations: The current approximate appraised value of the proposed annexation lands, according to County records, is \$376,620 with a total assessed value of \$73,820. Using the current City levy (\$31.828/\$1000 x assessed valuation), this roughly yields \$2,957 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. At this time, the property owner is not anticipating any further development of this property.

Legal Considerations: The property is eligible for annexation under K.S.A. 12-519, *et seq.*

Recommendations/Actions: Approve the annexation request and first reading of the Ordinance.

_____(150004)_____PUBLISHED IN THE WICHITA EAGLE ON_____

ORDINANCE NO._____

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN
BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE
LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS.
(A06-06)

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA,
KANSAS:

SECTION 1. The governing body, under the authority of K.S.A. 12-519, *et seq.*, hereby annexes the following blocks, parcels, pieces and tracts of land and they are hereby included and brought within the corporate limits of the City of Wichita, Kansas and designated as being part of City Council District II respectively:

The north 423.11 feet of the East Half of the Southeast Quarter of Section 9, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT for road right-of-way.

SECTION 2. That if any part or portion of this ordinance shall be held or determined to be illegal, ultra vires or void the same shall not be held or construed to alter, change or annul any terms or provisions hereof which may be legal or lawful. And in the event this ordinance in its entirety shall be held to be ultra vires, illegal or void, then in such event the boundaries and limits of said City shall be held to be those heretofore established by law.

SECTION 3. That the City Attorney be and he is hereby instructed at the proper time to draw a resolution redefining the boundaries and limits of the City of Wichita, Kansas, under and pursuant to K.S.A. 12-517, *et seq.*

SECTION 4. This ordinance shall become effective and be in force from and after its adoption and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this _____

Carlos Mayans, Mayor

ATTEST:

Approved as to form:

Gary E. Rebenstorf, Director of Law

Agenda Item 37.

**City of Wichita
City Council Meeting
February 14, 2006**

Agenda Report No. 06-0174

TO: Wichita Housing Authority Board Members

SUBJECT: Section 8 Family Self-Sufficiency Year-End 2005 Report

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority

Recommended Action: Receive and file.

Background: This is an annual report to provide information on the Housing and Community Services Department, Section 8 Family Self Sufficiency Program activities for 2005. The Family Self Sufficiency (FSS) program was created in 1990 as a result of the National Affordable Housing-act. The program was voluntary until 1993, when it became a mandatory part of mid to large Housing Authority administering Section 8 rental assistance Program.

The federal vision for the Family Self Sufficiency program is to match Section 8 participants with existing community resources and services, in order for them to achieve economic self-sufficiency. The Family Self Sufficiency Program helps participating families obtain job training or educational development, which can lead to employment or enhanced employment.

Participants in the Section 8 Family Self Sufficiency program sign a contract that stipulates the head of the household will get a job and the family will no longer receive welfare assistance at the end of their five-year term. As the family's income rises during the term of the FSS contract, a portion of that increased income is deposited in an interest-bearing escrow account. If the family completes its FSS contract, the family receives the escrow funds that they can use for any purpose, including down payment on a home purchase, paying educational expenses, starting a business or paying back debts.

The attached report reflects Family Self Sufficiency and Section 8 Housing Choice Voucher Homeownership Program activities during 2005.

Analysis: Over the past three years the Section 8 Family Self Sufficiency program has been rated a high performer and self-evaluation indicates the same for 2005. Since the inception of the FSS Program, 76 families have successfully graduated from the program. Families participating have finished school, cleaned up their credit, received Bachelor's Degrees, full time employment or started a business, and all families were no longer receiving cash assistance for one or more years prior to graduating. Thirty-six families have purchased their first home and are now homeowners; 25 of them entered into the Housing Choice Voucher Homeownership Program which allows vouchers to be used for mortgage payments. Two families no longer require financial assistance through the voucher program. In September 2005, the Department of Housing and Urban Development announced that the Wichita Housing Authority has been approved for renewal funding in 2006 for two Family Self Sufficiency Coordinator positions and

the Section 8 Housing Choice Voucher Program was successful in receiving additional funding for a Homeownership position. This position will assist families that have chosen homeownership as their goal.

Financial Considerations: None

Legal Considerations: None

Recommended Action: Receive and file.

**FAMILY SELF SUFFICIENCY (FSS)
YEAR-END SUMMARY REPORTS
FOR WICHITA HOUSING AUTHORITY BOARD
JANUARY – DECEMBER 2005**

	ACTIVITY	YEAR-END SUMMARY
FSS Contracts of Participation	An agreement that participants sign indicating their goals and objectives.	There are 185 families in the FSS program. There were two orientations held in 2005 which resulted in 61 new families entering into the FSS program. There are currently 73 families on the waiting list.
FSS Nationwide Survey	Survey to monitor the impact of the FSS Program nationwide.	The Wichita Section 8 FSS Program was selected as one of twenty Housing Authorities (3600) nationwide to participate in a study of the impact of the FSS program, to assist Congress in determining future funding for the program. Twenty participants from the FSS program have volunteered to be part of a survey conducted by HUD. The survey will study how the FSS program meets the needs of their clients.
FSS Workshop	Monthly workshop addressing barriers encountered by FSS participants.	Workshops were a huge success with a minimum of 50 persons at each workshop. Subjects that were covered: Education; Homeownership; Managing Your Finances; Substance Abuse; Domestic Violence; Gardening & Landscaping; and Effective Parenting.
Staff & Program Coordinating Committee (PCC) Training	Training involving Section 8 Activities, FSS, and Homeownership	Staff as well as PCC members received training from NAHRO on Section 8 Housing Management and Informal Hearing Officer. Staff received two separate computer trainings - one for the current system given by Marsha Yates. The second training dealt with new system software coming to the agency. Staff was certified as Family Self Sufficiency Coordinator and Homeownership Coordinator.
FSS Milestones	Objectives and progress obtained by FSS participants.	In 2005 there were four graduates from the FSS program with escrow totaling \$21,210.85. There are 116 families who currently have escrow accounts. FSS program was awarded funding for a new position, which is Homeownership Coordinator. A partnership with the Urban League of the MidPlains, was established to facilitate the CreditSmart modules.
Termination – FSS & Housing	Termination of participants for failing to meet family obligation or follow department or HUD procedures.	In 2005 there were a total of 28 families withdrawn from the FSS program
Portable	Participants moving to another city and/or state.	Five participants moved to another state and are participating with the Family Self Sufficiency with the Housing Authority in that city.

EXHIBIT A
REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT

OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS
STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplies of the City, by whatever term identified herein, shall comply with the following Non-Discrimination—Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated hereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the Phrase, “Equal Opportunity Employer”, or a similar phrase to be approved by the “Kansas Human Rights Commission”.
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the “Kansas Human Rights Commission” in accordance with the provisions of K.S.A.1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against discrimination under a decision or order of the “Kansas Human Rights Commission” which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Exempted from these requirements are: (State of Kansas)

1. Any contractor, subcontractor, vendor or supplier who has already complied with the provisions set forth in sections pertaining to the State of Kansas by reason of holding a contract with the Federal government, or a contract involving Federal funds.
2. Contracts entered into by a contractor, subcontractor, vendor or supplier who employs fewer than four (4) employees during the term of this contract.
3. Contracts with the City of Wichita with a cumulative total of five thousand dollars (\$5,000) or less during the fiscal year of the City.

D. Provisions of the City of Wichita, Kansas, relating to Non-Discrimination – Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall observe the provisions of the Code of the City of Wichita against discrimination (Section 2.12.900, et seq. of the Code of the City of Wichita, Kansas) and shall not discriminate against any employee or applicant for employment in the performance of work under the present contract, purchase order or agreement because of race, religion, color, sex, “disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification”, national origin, ancestry or marital status. The vendor supplier, contractor or subcontractor shall practice Non-Discrimination – Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Rights and Services Board of the City of Wichita, Kansas, “Civil Rights and Services” in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, “disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification”, national origin, ancestry or marital status. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, “Equal Opportunity Employer”, or a similar phrase that is deemed acceptable by the “Wichita Civil Rights and Services Board”;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the rules, regulations and the orders issued by the Board pursuant thereto, and will permit access to books, records and procedures concerning employment relations by the “Civil Rights and Services Board” of said City for the purpose of investigation to ascertain compliance with Non-Discrimination – Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the Board in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the

present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be initiated against such vendor, supplier, contractor or subcontractor;

4. If the vendor, supplier, contractor or subcontractor is found guilty of a violation of any provision of the Code of the City of Wichita pertaining to and regulating Non-Discrimination – Equal Employment Opportunity under a decision or order of the “Civil Rights and Services Board” of the City of Wichita, Kansas, which has become final, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement, and it may be canceled, terminated or suspended in whole or in part by the City of Wichita, and such other sanctions and remedies may be imposed as provided by law;
5. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 4 inclusive, of this present section in every subcontract, sub-purchase order or sub-agreement so that such provisions will be binding upon each subcontractor, sub-vendor or sub-supplier.

E. Exempted from these requirements are: (City of Wichita)

1. Any contractor or subcontractor, vendor or supplier of the City of Wichita, or any of its agencies, who wishes to enter into a contract, purchase order or agreement which is covered by the provisions of Section 2.12.908 of the Code of the City of Wichita, Kansas, shall prior to entering into such contract, purchase order or agreement, submit to the “Civil Rights and Services Board” of the City of Wichita, Kansas, a preliminary report on forms provided by the Board concerning Non-Discrimination – Equal Employment/Affirmative Action for review and evaluation. Upon review of the preliminary form submitted:
 - a. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
 - b. The provisions of Section 2.12.908 shall not apply to vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.
 - c. Those contractors, subcontractors, vendors or suppliers not exempted herein whose preliminary report reveals deficiencies shall be required to submit goals and timetables for correction of such deficiencies in accordance with instructions included with the preliminary report for review, evaluation and acceptance prior to a contract, purchase order or agreement award.

- F. Failure of any contractor, subcontractor, vendor or supplier to report to the “Kansas Human Rights Commission” as required by K.S.A. 1976 Supp. 44-1031, as amended, or to the “Civil Rights and Services Board” of the City of Wichita as required by 2.12.908, of the Code of the City of Wichita, Kansas; or being found guilty of a violation of the City’s Ordinances, State Statutes, or Federal Statutes, or regulations pertaining to unlawful discrimination, which finding, decision or order has become final, shall be deemed a breach of this contract and said contract may be canceled, terminated or suspended in whole or in part by the City or its contracting agency.

Agenda Item No. 40.

City of Wichita
City Council Meeting
February 14, 2006

Agenda Report No. 06-0177

TO: Wichita Airport Authority

SUBJECT: Host International – S. A. No. 3 – Restaurant and Concession Operations
Wichita Mid-Continent Airport

INITIATED BY: Airport Department

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the supplemental agreement.

Background: The current concession agreement between the Wichita Airport Authority and Host International to provide food, beverage, and news/gift shop services and concessions in the terminal building was entered into on February 5, 1990, and will expire on April 30, 2006.

Analysis: Plans are currently underway for the construction of a new terminal building. Within the year prior to the planned opening of the new terminal, Requests for Proposals will be solicited from concessionaires relative to the planning and construction for restaurants, bars and retail shops. In the interim, the Wichita Airport Authority is desirous of extending the agreement with Host for an additional four-year period through April 30, 2010, in order to provide for a smooth transition between now and the opening of the new terminal. At its meeting on February 6, 2006, the WAAB unanimously recommended the lease extension.

Financial Considerations: In consideration of the lease extension, Host will agree to some additional investment in its current facilities and will make some modification of services offered.

Legal Considerations: The Law Department has approved the supplemental agreement as to form.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve Supplemental Agreement No. 3, and authorize the necessary signatures.

